CITIZENSHIP

ARTHUR B. ALLEN
AND
O. R. S. HUDSON

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"Every human tribunal ought to take care to administer justice, as we look, hereafter, to have justice administered to ourselves." (LORD ERSKINE : *Speech in Defence of J. John Stockdale*)

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by

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O. R. S. HUDSON

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INTRODUCTION

So much has been written upon the subject of citizenship during recent years, that when I was invited to write this present volume, I hesitated. But direction was to come from a somewhat unusual source. Seated by my own fireside, with an American Major as my guest, talk veered time and again towards the ideas which lay behind the training for citizenship. The Major and I had much in common. He was interested in young people and so was I. He was a doctor, I was a teacher, and we found that much of our work was complementary. Moreover he was concerned for the future of American youth, as I am concerned about the future of the youth of my nation. We compared and contrasted the various forms of Youth Organisations in our native countries, and we decided that however short these Youth Organisations fell in attaining the ideals of their founders, they had this in common—they strove for the welfare of the youth and the development of character. In a word, on both sides of the Atlantic, there were innumerable organisations whose main work lay in the development of good citizenship. Now *a good citizen is not only a good fellow in the social sense, but also a good fellow in the national sense, leading ultimately to becoming a good fellow in the international sense. To honour one's father and mother, to become a man of one's word, to live an honourable and decent life, doing all one can do for one's neighbour, these are sound beginnings in education.* There is a foolish idea abroad that academic qualifications make a good citizen. But all are not born scholars or technicians. Some have no degree of scholarship at all. Others, while not accounted technicians in the eyes of the modern world, are craftsmen, that rare combination of native skill and idealism, without which no civilization can arise and without which no civilisation can survive. Even America with her vaunted mechanised civilisation has at last come to realise this.

Individuality, developed through craft training is a part of citizenship. So too is parochial, county and national pride. We discussed all these points, the Major and I, and then he said "Why don't you teach the Laws of your country? They're the backbone of your English life, ain't they? You are ruled by custom over here. Tradition you call it. You may not know it, but it was the English tradition that won the Battle of Britain, and produced Churchill, who pulled the biggest bluff in history over Hitler. Boy, I'm tellin' you! When Churchill broadcast that 'We'll fight 'em from the housetops' speech . . . you hadn't got a damn thing to fight Hitler with. No sir! And you knew it . . . or some of it. Yet you'd have fought 'em with bricks and your bare fists! That's the English tradition. That's your British citizenship. Built on ancestry and those other crazy notions of yours. They may be crazy, but they build fighting men and women. I'll bet there's not one in ten thousand over here knows that. I'll bet there's not one in ten thousand knows the laws of this country of yours. You just don't teach 'em. That's why they don't know. Teach 'em. Show 'em how those laws have grown up. Show 'em how they have been altered, and what they mean today. The rights of the people . . . that's citizenship . . . and there's your new book. Go on, write that book!"

Rightly or wrongly that conversation gave me my starting point. This volume is the result. In this work I aim, therefore, to show as clearly and as simply as possible, the contributive causes of pride in citizenship in this kingdom. *The Laws of England* are too vast to epitomise in so small a space. Here I have given as much as is possible, along the lines of interest. I have in mind that teacher, parent or reader may use this work as a reference from which future study and wider reading will result. I do not believe that it is necessary to argue logically about the necessity of teaching the ideals of citizenship. Youth will follow its leaders and is impatient of doctrines and precepts. The success of the Scout Movement lay in the magnetic personality, and the eternal youth of Baden Powell. Youth must have a leader.

It respects, but does not necessarily like its professors. Yet youth, properly stimulated possesses a serious mind. The tragedy of youth lies in that it is so seldom taken seriously. One may be serious surely, and still keep the gift of laughter.

This book then, aims no higher than to give material to those of all ages, who desire to know something of the government of this country, and how that government has evolved. It does set out the ideals of citizenship. It's a poor fellow indeed who will not defend what he has inherited. Here then is the English inheritance in terms of government.

One word more. This book was ready for publication when the war was in its most grim stage. Publication was therefore delayed. When peace came, and with peace new Laws, revision was found to be imperative. The entire work of revision was undertaken by my old friend and colleague Mr. O. R. S. Hudson. It was a formidable task that could have been done only by a friend, for a friend. That is why Mr. Hudson's name appears with mine upon the title page. His devoted loyalty made such a recognition a point of honour. It is a recognition I record with pride and delight.

ARTHUR B. ALLEN.

Peterborough, 1948.

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PART I.

I.—THE MACHINERY FOR LAW-MAKING

GOVERNMENT: ITS PURPOSE

"All men desire to lead in this world a happy life. That life is led most happily, wherein all virtue is exercised without impediment or let. . . . For this cause, first God assigned Adam maintenance of life, and then appointed him a law to observe." In such brief words Richard Hooker, in the sixteenth century, stated what must surely be the first article of the universal creed of humanity. Looking back we see it is but a reflection of Aristotlian philosophy. But it is significant that the American Colonists should take the precaution of incorporating this article in their Declaration of Independence; and that Robert Owen, the father of British Socialism, should accept it. Men of every shade of religious thought and political opinion seem ultimately to be driven to admit the validity of the Law of Nature which postulates "that Man should pursue his own true substantial happiness." But in our search for the happy life we must use great care or we shall fail. We are not isolated individuals who may live and act with unrestrained, *absolute*, freedom and carefree abandon. We are each and every one born as new and additional members of an existent community of persons whose ultimate pursuit is the same; and, in its wisdom, the community seeks to protect itself against the unwise by the operation of Law which has been described as Reason backed by Force. Hence the point of Hooker's words, ". . . and then appointed him a law to observe." Hence, too, the American Colonists clause, ". . . to secure these rights governments are instituted among men . . ."; because it is in government that Law originates.

The American Declaration of Independence is so plain and straightforward an amplification of Hooker's simple statement that we ought to keep it before us. Here it is: "We hold these truths to be self-evident, that all men are

created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, laying its foundations on such principles and organising its powers in such form, as to them shall seem most likely to effect their safety and happiness . . . ." Here the purpose of government is clearly defined; it is to secure the safety and happiness of the people, and it is attained through the protection of their lives, liberties and property; through the establishment and preservation of just and harmonious relations between the members of the community, and with the neighbouring communities. Indeed, the purpose of a government is to govern: to govern, to promote such conditions that the people may live in joy and felicity and work and trade in peace—trade being an essential part of the life of the people. Few will disagree as to the purpose of government; for what other end can men have in view when they form themselves into a political society than their *mutual* advantage and welfare? In the words of William Blackstone, "Mankind are led by a natural impulse to embrace each other's fellowship and communion, for the purposes of promoting their mutual convenience, and providing for their common safety." But from time to time and country to country widely divergent views are held as to how to attain the purpose for which governments are instituted. With such views, however, we are not concerned here because they are in the realm of political doctrine. Here we are concerned with the "mechanics" of government. Throughout this book we shall concern ourselves only with the "mechanics" of government and not at all with political doctrines and theories, except in so far as they have already been employed to form part of the mechanism. Of political doctrine and theory books and booklets, pamphlets and leaflets, by the thousand have been written, so we shall limit

ourselves here to examining and explaining "The System" of government as it is.

I.—THE FORM AND STRUCTURE OF GOVERNMENT

Having accepted the necessity for forming themselves into political societies men have had to devise the means for ordering their relations with one another within the community and their collective relations with other communities. The origin of government is almost completely hidden in, or at best only dimly perceived through, the mists of antiquity. There seems every probability, however, that it originated in the exercise of paternal influence and authority within the family group; and that the wise man by his wisdom or the strong man by force acquired an influence extending beyond his family circle tending to unite family groups into a village group with himself as the leader. The parallel of this form of "government" is found even today among wild herds and in the politico-police dictatorships so familiar in recent years. This exercise of influence and authority is a process that has gone on through the course of time ever extending until the national state is reached, in which we are today. With each extension of influence and authority the process of government has become more complex so that we now find it conforming to a definite pattern or system, reputed by some to be ecclesiastical in origin, by others its origin is said to be military. The first thing to be noticed with regard to the system is that national areas are divided and sub-divided territorially into regions and districts, often closely resembling the pattern of the ancient units—the principalities and kingdoms of a bygone day—the fusion of which has produced the modern nation. or example, the map of Britain in the ninth century A.D. and the map of the Central Government Boundaries of modern England bear a very striking resemblance the one to the other. This territorial division of a country being the basis of Central Government Regional Administration and also of the older forms of Local Government is a matter of considerable importance. The other aspect of the system demanding our attention is the division

and sub-division of the business of government administration into departments—the Offices of State. In a modern State each of these offices is an organisation of considerable complexity, with each of which we will deal in detail.

It will assist us not a little to understand the system as a whole if we think of the structure of government as a Pyramid of Rule and Control formed by piling together the lesser pyramids of the offices and sub-offices of the Officers of State and of Local Government, the whole based on the people of the nation divided into territorial units. The foundation of the Pyramid of Rule and Control is the people by whose joyful human labour the scene is enriched, made "smooth in field; fair in garden; full in orchard; trim, sweet and frequent in homestead." Its coping is the Head of the State, monarch or president as the case may be.

The Pyramid of pyramids will be found a useful illustrative device in the study of economics also, and, indeed, of all matters of human organisation. With this device we must associate the "committee idea," the group or knot of men who sit round the committee table, or at the board, at a slightly lower level than their chairman, or president, the recognised leader of the group. It is here in discussion that ideas schemes and projects originate, that decisions are reached, seldom as the product of one mind but rather as a synthetic product of discussion. The general idea or scheme is passed downward to the technicians and specialists to be perfected and translated into operative form, and sub-divided into tasks which are then passed on down as instructions and orders to the working teams at the base of the pyramid of organisation. We will now consider the various layers of the Pyramid of Rule and Control in detail, beginning with the apex and descending.

The Monarchy in Great Britain

For a period of not less than 930 years, save for an interval of eleven years (1649-1660), the coping and the ornament of the English State has been the Crown. To the extent that the Crown of the United Kingdom is vested by statute in the

heirs of Sophia, granddaughter of James I, who married Ernest Augustus, Elector of Hanover, it is hereditary; but in as much as this Act of Settlement of 1701 makes the succession conditional there is the implication that it is elective; there is recognised the right of parliament, as representing the nation to determine who shall occupy the throne. A trace of the recognition of this right is perpetuated in the coronation ceremony when the Archbishop of Canterbury presents the sovereign to the people as the undoubted king (or queen) of the nation and the assent of the people is shown by acclamation. After this acknowledgment by the people of their willingness to do homage and service to their new sovereign, but before he (or she) is consecrated to the royal office, an oath is required of the sovereign solemnly promising to govern the peoples according to their respective laws and customs; to cause law and justice, in mercy, to be executed in all judgments; to maintain the Laws of God and the Protestant religion and the Established Church as established by law. Thus the royal power is publicly acknowledged as limited and of popular origin. We must now consider the royal prerogative.

The Royal Prerogative

The royal prerogative is the exercise of those powers in which the sovereign is placed above the law; it is the power of the monarch to do things which no other man can do without the authority of an act of parliament. For example he may overrule and override the law that justice may be done. It is by virtue of this power that the executive exercises the right of pardoning a condemned criminal. It is the royal prerogative to make war and peace; to bestow honours and awards; to summon, prorogue and dissolve parliament; to appoint bishops and deans, and officers of the armed forces; for the reigning monarch is not only "The fountain of all honour and dignity—as indeed of all power" but also the Head of the Church and Commander-in-Chief of the Services. But it is to be noticed that all these things are done "by and with the advice of our Privy Council," or on the recommenda-

tion of some member of the Privy Council, because all Cabinet Ministers are members of the Council. The prerogative, indeed, is exercised now through the agency of the duly appointed servants or ministers of the Crown. But in times gone by the King was regarded as God's representative, to Whom alone he was responsible for his acts. As such the King was clothed with extraordinary powers. Out of this fact arose the legal fiction (an invention conceived in the legal mind) "The king can do no wrong." This fiction was the subject of a witticism by Charles II. The Earl of Rochester is said to have written a satirical epitaph for the King:

"Here lies our sovereign lord the king,
Whose word no man relies on;
Who never said a foolish thing,
And never did a wise one."

The King promptly replied, "That is easily explained—my words are my own, my actions are my ministers!" so very pointedly illustrating that with the rejection of the doctrine of the Divine Right of Kings the purpose of the fiction now is to secure the responsibility and accountability of ministers. Consequently every important act of executive government by the Crown is done in prescribed form in conjunction with a minister who is responsible for the act as well as the consequences of it. But in law the practical effect of this fiction was that no action in tort would lie against the Crown. That, of course, has been the subject of the latest constitutional reform. The Crown Proceedings Act, 1947, with safeguards and exceptions now enables a subject to sue the Crown in the same way that subject may sue subject. So then the royal prerorgative, extensive as it is in theory, is in practice limited and defined.

Now the important points to be regarded so far are these: the Crown in this country is hereditary but on a conditional basis; the royal prerogative extends throughout the constitution, but it is in practice limited to protecting the right and securing justice.

The Crown and the Sovereign

We ought at this point to draw attention to the distinction between the Crown and the Sovereign. The Crown is essentially the royal office, the supreme executive authority comprising the Sovereign, his ministers and parliament; the Sovereign is the royal occupant of the office for life, the reigning monarch—king or queen—and so is a person. Although here we use the word Sovereign in this particular sense it must not be overlooked that the word has a different significance as it is used to indicate the legal Sovereign of jurisprudence, or the political Sovereign of political science and philosophy. With that word of caution and without staying to trace the development and vicissitudes of monarchical theory which is the province of constitutional history we will step down from the contemplation of the golden coping of the State to a consideration of the immediate advisers of the Sovereign.

The Privy Council

The Privy Council is a body appointed by the reigning Sovereign and required on oath of fidelity and secrecy to advise and counsel him on all affairs of weight. The Council comprises the great officers of state, the two Archbishops, the Bishop of London, certain law lords, peers who have held important administrative office and others eminent in their respective walks of life. Of course all Cabinet Ministers on taking office are sworn members of the Council, and during the monarch's pleasure, continue to be members even after relinquishing their office. Privy Councillors are quite a numerous body, and even as far back as the time of Charles I. a cabinet council is mentioned indicating the existence of a smaller and inner select group of confidential advisers of the Sovereign. It is customary for only those to attend who receive an invitation to do so. These meetings, which take place perhaps rather oftener than once a month, are usually attended by only four or five Councillors of whom the Lord President of the Council, the principal member of the Privy Council after the King, is almost certain to be one. The

business is more or less formal, consisting largely in issuing Orders in Council and Administrative Orders which really originate in various Departments of State. In that light the Council is now to some extent an instrument of the Government for enacting subordinate legislation. But formal as the business of these meetings may be there are many matters which are referred by the Sovereign to committees of the Council, some of which are Standing Committees; other committees being constituted to deal with particular matters. For instance, the Judicial Committee of the Privy Council, consisting of the Lord Chancellor, the Lord President of the Council and ex-Lords President, the Lords of Appeal in Ordinary and other members of the Council who hold, or have held, high judicial office, constitutes the supreme judicial authority *of the Commonwealth.* Appeals are brought to it in the form of petitions to the Crown from the courts of the Dominions and certain other courts, e.g., Ecclesiastical and Consular Courts. On those occasions when the monarch is absent on visits to foreign countries, when the Crown is put in commision, a small number of the Council, usually members of, or closely related to the Royal Family, is appointed to act on behalf of the monarch; the same provision is made in the event of the illness of the Sovereign. On the death of the Sovereign the Council is summoned to act with others for a period of six months, unless determined sooner by the succeeding Sovereign.

Historically the Privy Council is of very ancient origin—or rather the idea is—for the name only appears at the time Parliament acquired the right of nominating the members under the Lancastrian kings. The idea, however, certainly goes back to the Anglo-Saxon Witan, The Assembly of Elders, or Council of Wise Men; in Norman times it was embodied in the Curia Regis (the active body between the meetings of the Magnum Concilium). The Curia Regis then exercised legislative, administrative and judicial functions, which were later divided between the Courts of Exchequer, King's Bench and Common Pleas on the one hand and the King's Council on the other. Prior to 1688 the business of

government was transacted by the King's Secretaries, assisted by a staff of clerks, under the general direction of the king and his council, and, at least, under the Tudors with the support of the Commons. During the reign of Henry VIII, seats were assigned by statute at the Privy Council Board to the secretaries. In a very literal sense they were the King's Ministers. Through them the will and pleasure of the king was made known; through them the king could be approached. They were in fact important and influential persons, frequently highly-placed ecclesiastics or members of the nobility. Generally there were two secretaries (though at times a third was appointed) and between 1688 and 1782 they were known as the Secretary for the Northern Department of Europe and the Secretary for the Southern Department. In 1782 they became respectively the Secretary of State for Foreign Affairs and the Secretary of State for Home Affairs. Since then others have been created so that in 1947 there are eight Secretaries of State. So originated the first important divisions in the business of government administration which, in time, were to lead to the Privy Council being superseded as the executive body of government. To follow the analogy with which we began we have come to the apices of a number of lesser, self-contained but intercommunicating pyramids within the Pyramid of Rule and Control.

The Offices of State and the Ministers of The Crown

At the head of each State Office—or Department—there is either a Secretary of State, or a Minister, or a President, as for example, the Secretary of State for Home Affairs, for War, for Foreign Affairs; or the Minister of Health, of Education, of Agriculture and Fisheries; or the President of the Board of Trade. From the strictly practical lay point of view the difference in title is of little significance—historical origins will be considered later—because the holders of the principal offices are generally taken to be at the same level, though for State and official purposes a certain order of precedence is observed among them. The Ministers are not permanent occupants of their offices; they occupy them for the

time being as the political heads—the links between the elected Parliament and the permanent staff of the State Departments. The permanent staff of all the State Departments is known as the Civil Service, and the Civil Servant at the head of a Department is known either as the *Permanent Under-Secretary of State* or as the *Permanent Secretary*. Immediately under him are the *Deputy Under-Secretaries of State*, or *Deputy* (or Second) *Secretaries* as they are known in some of the Departments. And so the Service is ranked and graded down through *Principals* and *Assistant Principals* to the lowest grade of clerk. In this way the work of a Department is divided and sub-divided and "broken-down" into detail and dealt with. On a like system of sub-division certain departments administer the affairs of the Central Government and exercise control regionally throughout the country. The highest officers of the Civil Service are concerned with the formation of policy, the co-ordination, administration and control of their Departments. Receiving their directives from the Minister concerned, after they have been in conference with him, and he has been in consultation with the Cabinet, they issue their instructions and orders downward while upward are passed the reports, statistics and information and so on as called for. In this way the laws and provisions enacted by Parliament are made operative and effective throughout the land.

If in surveying the field of State Departmental activity we do so, as far as possible, with reference to the chronological sequence of the creation of Departments we shall see very clearly how, with the passing of time, the range of governmental activity progressively extends, and tends more and more minutely to effect the life of the citizen—of every citizen. This tendency has increased with remarkable rapidity in the last thirty years.

The exercise of the functions of government is possible only so long as adequate supplies of money are available. Whoever controls the coffers controls the country is almost axiomatic. We will look at the Departments concerned with money and finance first.

The Royal Mint

The coining of money in most countries is the prerogative of the sovereign. It is so here. In this country the first known Master of the Mint dates from the time of Henry I. By the Coinage Act of 1870 the ancient post of Master of the Mint as such was abolished and combined with that of the Chancellor of the Exchequer under the title of *Master and Worker*. The Royal Mint, Tower Hill, as now constituted may be said to date from 1817. It is the only source of legal coin.

The Treasury

The Treasury as the finance office concerned with the receipt and expenditure of revenues generally is one of the most important offices of a government. In this country it is the descendant of the Norman Revenue Office, and its name the *Exchequer* is reputed to be due to the chess-board patterned cloth covering the table at which the Sheriff's monies were received. Originally it was presided over by the Lord High Treasurer, but his office, with intervals since 1612 and continuously since the time of Queen Anne, has been "put in commission," that is under the final supervision of a Commission consisting now of the First Lord of the Treasury (who nowadays is also the Prime Minister); the Chancellor of the Exchequer (who is the actual head of the Treasury and Under Treasurer, supervising the work of the Department in a general way to give effect to government policy); three Junior Lords of the Treasury, paid, and sometimes one or two unpaid. There are two Secretaries: the Parliamentary—formerly the Patronage—Secretary, who is also the Chief Government Whip, and the Financial Secretary. All the members of the Commission—the Commissioners—and the two Secretaries are members of Parliament. Of them the First Lord, the Parliamentary Secretary and the Junior Lords are mainly concerned with political matters, while the Chancellor and the Financial Secretary are concerned with finance and the preparation of the Civil Service Estimates. The real

working of the details of course depends on the permanent Civil Servants of whom the head is the *Permanent Secretary and Head of H.M. Civil Service*, or, as he was formerly styled, the Comptroller General.

The work of the Treasury consists largely in devising the means annually to raise the money to pay for the cost of government services and national defence, and also in the exercise of a certain degree of control and supervision over the expenditure of the various departments. Every department in fact before making any changes in its own working arrangements which may involve expense must first obtain Treasury sanction; but by far the heaviest expenditure incurred by a department is not that for its own internal administration as salaries, wages and so on, but that incurred in giving effect to the general policy of the government as defined by the Chancellor of the Exchequer, after consulting his Cabinet colleagues.

The revenue is derived chiefly from the money collected by the Board of Inland Revenue, the Board of Customs and Excise and the Post Office. It is spent mainly on the Supply Services, i.e., the Navy, Army and Air Force, and by the following Civil Departments: Education, Health, Pensions, Labour and the Home Office for Police and Prisons.

The Budget

It is usual for the government of the day to estimate its expenditure for twelve months ahead from the 1st April. For this purpose the Treasury calls on all departments towards the close of the year to render estimates of their expenditure for the ensuing year. These the Chancellor, advised by the permanent heads of the Treasury, will review and probably revise. He will then lay them before the Cabinet for discussion by the Ministers so that after Cabinet approval the estimates may, on the collective responsibility of the Cabinet, be presented to the House of Commons sitting as *the Committee of Supply*. It should be noted that the estimates for each department are actually produced in the Committee of Supply by the Minister responsible for the department. When

the Committee of Supply has approved the estimates the House, sitting as *the Committee of Ways and Means,* passes the necessary resolution for the money to be appropriated. The next operation commences—the consideration of ways and means. The second part of the task is to decide how the money is to be provided. For this purpose the heads of the collecting departments supply the Chancellor with estimates of the probable revenue for the ensuing year based on the returns for the current year. If a deficit seems likely the Chancellor has to consider how the additional money can be raised, or, on the other hand, if there is the probability of a considerable surplus he has to consider what taxes may most suitably be reduced or abolished. The Chancellor, assisted by his financial advisers at the Treasury, draws up his statement reviewing the position with reference to the yield from the estimates for the past year and, indicating the probable income and expenditure for the ensuing year, he announces what taxation he proposes to remit or increase giving reasons which of course reflect the general policy of the government of the day. So naturally the statement is fully discussed by the Cabinet before it is brought before the House usually early in April. This is the Budget. In the more or less lengthy speech of the Chancellor "expounding the Budget" to the House—sitting as the Committee of Way and Means—he is really saying what he has left over from last year, what he wants this year and how he intends to get it. In the debates and discussions following, which range over a very wide field, the proposals contained in the Budget are considered in the form of resolutions which may be passed or rejected singly or *en bloc.* But the rejection of any resolution would almost certainly lead to the resignation of the Chancellor, and probably to that of the whole Cabinet. Such an event is very unlikely since the Cabinet is formed from the party, or coalition of parties, holding the majority of seats in the House, and the party usually loyally supports its leaders. The resolutions passed in these sittings of the House form the subject of the Finance Act which confirms the taxation proposals for the year.

Taxation

Now a few brief words on taxation. Of the forms of taxation volumes may be written by way of justification and criticism: we have space enough only to notice them as they are. In form taxation may be either direct—the levy being demanded directly of the citizen, or it may be collected from the citizen by some indirect method. Direct taxation is collected principally, though not exclusively, through the Inland Revenue Department, and the Post Office as its agent. By far the greatest amount is raised by demanding a certain proportion (stated as so many shillings in the pound) of everyone's income—Income Tax, whether it be earned as wages or salary, profits from profession or trade, or the return derived from money invested in commerce and industry or land and buildings or funds. First imposed as an emergency measure during the Napoleonic wars and revived in 1842 at seven pence in the pound on incomes over £150, in 1946-47 the standard rate was nine shillings in the pound! Further a duty known as Stamp Duty because the Revenue affix a stamp signifying the duty has been paid on the appropriate documents (without the stamp the documents are denied legal recognition), is payable on all transactions relating to the sale of land and marketable securities. The Board of Inland Revenue also collect directly money as duties and taxes and licences covering the widest range of activities from admission to the degree of a barrister to a licence for an Inebriates' Retreat.

Direct taxation accounts for rather more than half of the money raised by the government each year.

Indirect Taxation

Indirect taxation, so-called from the fact that the citizen does not pay the money direct to the Board of Customs and Excise but by way of the trade chain of distribution passing the duty up from the retailer to wholesaler and manufacturer who pays it over to the Board, is in effect a tax on habits and uses. For example, if one smokes and drinks one has to pay duty on these commodities, which of course the non-smoker and the teetotaller do not; one pays duty if one wears silk

stockings, if one elects to go without then no duty is payable. Since the introduction of Purchase Tax duty is paid to the government on practically everything one buys with the exception of certain essential foodstuffs. It is necessary to distinguish between Customs and Excise. The former are almost entirely the duties levied under the Import Duties Acts on goods entering the United Kingdom. The list of exemptions is extremely short. The duties are collected in the case of goods brought in by travellers from overseas on entering the port, in the case of goods consigned from abroad in bulk at the time of their withdrawal from the bonded warehouse. These duties are added to the sale price of the goods and so, as we have said, are ultimately paid by the citizen purchaser. Excise is a duty charged on goods made within the country, or a tax levied in the form of a licence to make and sell certain articles or to pursue certain occupations. For instance a duty is levied on every mechanical lighter manufactured; on admision to an entertainment; and a licence must be bought by every house agent, auctioneer, moneylender, or hawker, and so on.

Taxation we have said is primarily to pay the cost of government services and national defence, but we ought not to fail to notice that in recent times it has also come to be a system for the redistribution of the nation's wealth according to the policy of the government for the time being. The money when collected is paid by the departments to the account of the Exchequer at the Bank of England and forms the Consolidated Fund. From this fund no payment may be made except by authority of Parliament. Some expenditure from this fund is made by parliamentary direction expressly stated in a permanent statute as in the case of the Civil List, the expenses of the courts of justice and the national debt, but other expenditure can be made only by express vote of Parliament for the purpose, for example, annually in the case of the armed forces and various charges of the Civil Service.

To watch over the Receipt and Issue of the Exchequer, to see that issues are made only when there is parliamentary authority for them, to examine the accounts of the receipts of

revenue, and to render a report on these and other matters annually to the House of Commons is the duty of an officer known as the Comptroller and Auditor General. He is appointed by Letters Patent under the Great Seal and cannot be removed from his office except on an address from the two Houses of Parliament. His department is known as the Exchequer and Audit Department, an office created by Act of Parliament in 1866.

Historical Review

Historically the Board of Inland Revenue can be traced to the appointment of the Commissioners of Stamps, 1694, and of the Commissioners of Taxes in 1719. In 1835 they were combined as the Board of Stamps and Taxes. In 1850 the Board by amalgamation with the Commissioners of Excise formed the Board of Inland Revenue. The Board of Customs and Excise originated in the appointment of the Commissioners of Customs in 1671, the administration of the Excise being transferred to this Board from the Inland Revenue in 1909.

The Post Office

Government without means of communication is impossible. For that reason we may be certain that a system of posting (in the historical sense) dates back to the earliest times. Some reference to it is made in Acts of Edward III and Henry VIII. The first Master of the Posts seems to have been appointed in 1516; and until 1635 the post system was used almost exclusively for the conveyance of government despatches. In exceptional cases private letters were forwarded by the posts, but there was no public office. By the end of the sixteenth century, however, a foreign post for the use of the foreign merchants in London was established and a Post Office opened, probably in Cloak Lane. That may be regarded as the introduction of an organised system though it bore little resemblance to the modern Post Office which may be said to date from the introduction of the penny postage by Sir Rowland Hill in 1840. Until that date the work of

the Post Office consisted almost exclusively in the collection and delivery of letters, which, to-day, forms only a part of the Post Office activities. In 1792 the Money Order Office was inaugurated, and after the middle of the 19th century Post Office activities rapidly extended: the Book Post was instituted in 1855, the Savings Bank in 1861, Telegraphs in 1870, Postal Orders in 1881, Parcel Post in 1883 and the Telephone service in 1892. To-day it is one of the three great revenue collecting departments of the State receiving large sums for duties and taxes on behalf of the Inland Revenue Department, issuing licences for the Customs and Excise Department and the County Councils, and stamps as receipts for payments of National Health and Employment contributions on behalf of the Ministry of National Insurance, as well as paying out Widows', Orphans and Old Age Pensions and Service Pensions and Allowances. By the Post Office Acts the exclusive privilege of carrying letters (with certain exceptions) from place to place is vested in the Postmaster-General.

The Postmaster-General is the political head of the Post Office, and holds office so long as he is a Minister of the Government; but he has not a seat in the Cabinet. The Director General is the head of the permanent staff.

The Paymaster-General's Department

This office was finally consolidated in its present form in 1848 as the paying agency for all Government Departments, except the Revenue Departments. The sums for this purpose are placed to the credit of the Paymaster-General's account by order of the Lords of the Treasury out of the Exchequer Accounts granted by the Comptroller and Auditor-General (p. 16). Most of the payments are made through banks to whose accounts the transfers are made at the Bank of England; though cash payments are made in certain cases.

The Paymaster-General is unpaid, and a junior minister of the government. The permanent head of the Department is the Assistant Paymaster-General.

We have now outlined the system by which the government

ensures for its purposes adequate supplies of money, and the control of expenditure and of communications. We will now briefly trace the origins and development of the functions of the most important of the great Offices of State. In 1782 Burke introduced certain measures of economical reform which involved a revision and some reduction in the royal offices and appointments. Among other things he succeeded in abolishing the third Secretaryship of State—created for the American colonies. The colonies were gone, so the Secretaryship went. So did the Lords of Trade and Plantations, the Lords of Police in Scotland, the principal officers of the Chamber, of the Great Wardrobe, of the Jewel Office, the Treasurer of the Chamber, the Cofferer of the Household and six Clerks of the Board of Green Cloth. We meet the successors of some of these later. The changes were more far-reaching and lasting than perhaps even Burke suspected. We have already noticed (p. 9) that between 1688—the year of the Revolution—and this year of change, 1782, there were two principal secretaries of state, one for the Northern and the other for the Southern Department of Europe, who became at this time respectively the Secretary of State for Foreign Affairs and the Secretary of State for Home Affairs. This division of the affairs of state is important and significant; and it is logical. Let us notice the Home Office first. In tracing its development we shall see how, with the passing of time, in internal affairs (which by the way is the title given by most foreign governments to the corresponding office) the central government assumes a wider and more minute control over the everyday life of the citizen.

The Home Office

On the rearrangement of offices made in 1782 the newly created Secretary of State for Home Affairs retained the business relating to Ireland, the Colonies and War. Twelve years later he was relieved of War business by the creation of a Secretary of State for War, to whom, in 1801, the care of colonial affairs was entrusted also. So the duties of the Home Office came to be limited, more or less, to matters

suggested by its title. In fact it came to the "Ministry of the Interior," as the office is often designated abroad.

Responsibility

The first responsibility of the Home Secretary is the preservation of the King's Peace: the maintenance of law, and the preservation of order within the nation and between its members. It is for this purpose that he is authorised to detain and open letters in course of transmission by the post office, and exercise control over the telegraph service, if he has reason to believe that some danger to the state exists. It was the better to maintain the law and preserve order that Sir Robert Peel organised the Metropolitan Police on a military model in 1829; a system, which in 1856, every county was compelled to adopt. The Metropolitan Police Force is entirely under the control of the Home Secretary, who is also the final authority in police matters. Over the provincial forces he exercises a general supervision through the Inspectorate of Constabulary for England and Wales, and some measure of control through the administration of the Exchequer grants made to local authorities for police purposes.

Business

As is the case with all State Departments the business of the Home Office is divided between several divisions, departments and branches. The Factory Department through a somewhat extensive inspectorate distributed throughout the country administers the Factory and Workshops Acts. There is an Inspectorate of Explosives to enforce compliance with the Acts and regulations relating to explosives; and there are separate Inspectorates under the Acts relating to inebriates, dangerous drugs and cruelty to animals. Matters arising out of the Burial Acts and Licensing Laws also come under the jurisdiction of the Home Office. The immigration of aliens is watched over by its Immigration Branch. One of the more recently created departments is that of Air Raid Precautions under the superintendence of an Assistant Under Secretary of State. The Home Office, of course, exercises

complete control over prisons in England and Wales through the Prison Commission and also over Industrial and Reformatory Schools. Lastly we may notice that money matters are dealt with by the Finance Branch under the Finance Officer who ranks as a Principal in the Civil Service. There are a number of specialists and advisers on diverse matters employed within the Department, or attached to it, e.g., Legal, Fire, Official Analysts, Scientific Aids to Police Work, and so on.

The Secretary of State for Home Affairs as the political head of the Home Office is necessarily a member of the government for the time being with a seat in the Cabinet. It is through him that the royal prerogative of mercy is exercised: the right of remission and of pardon. Through him the Sovereign's pleasure is made known to the people by Proclamation and certain important items of state intelligence announced; he is also the channel of communication between the subject and the Sovereign by way of address and petitions in all matters which do not come within the special jurisdiction of another Secretary of State.

The Foreign Office

Historically the functions of the Foreign Office are of very ancient origin, and until very recent times they have been the particular province of the sovereign in all countries; the secretary being the amanuensis and mouthpiece of the sovereign. Even today, in some respects, this may be said to be the relationship between the secretary for foreign affairs and the head of the state.

When in 1782 the Secretary for the Northern Department of Europe became the Principal Secretary of State for Foreign Affairs Charles James Fox first held the office as such. It has been the custom for the Foreign Secretary to be a member of the House of Lords, a Parliamentary Under Secretary representing him in the House of Commons. But for many years now the Foreign Secretary has been a member of the Commons' House. He is an important member of the Cabinet. In his duties he is assisted by three Under Secre-

taries, two of them Parliamentary, that is, members of Parliament, the other being the Permanent Under Secretary of State—the Civil Servant at the head of the Foreign Office permanent staff.

Duties of Foreign Secretary

The primary duty of the Foreign Secretary and the Office over which he presides is to promote and maintain such relations with foreign states as shall be conducive to British national interests. For that reason there is a continuity of policy, regardless of the political outlook of the government of the day, that is hardly to be found in any other of the State Departments. The Foreign Secretary works in the closest harmony with the Prime Minister, with the full knowledge of the Sovereign and full responsibility to Parliament. He is also charged with the duty of securing for British subjects abroad the proper enjoyment of their rights; of receiving their complaints, and when well-founded of seeking their redress. In order to do these things and to maintain close contact with foreign governments he accredits ambassadors and ministers to courts and governments abroad in the name of the Sovereign. Each of these representatives is in direct and privileged (diplomatic) communication with the Foreign Secretary, who also approves the consular appointments. It is the duty of these representatives to observe and report upon all matters, e.g., trade, affecting British interests; to advise and assist as necessary British subjects travelling or residing abroad. Not until about thirty years ago was the passport brought into general use; now it is almost universally required. Issued on behalf of the Foreign Office through the Passport Office as an injunction in the name of the Sovereign to whom it may concern to assist and forward the holder on his journey it is in fact a certificate of identity.

The Foreign Secretary is always present when the Sovereign receives foreign representatives.

The Board of Trade

The Board of Trade was originated by Cromwell, reinsti-

tuted by Charles II in 1660, and led a chequered and spasmodic existence till 1786 when it was established in its present form by Order in Council. Technically it is a Committee of the Privy Council; the Board, which never meets, being known as "The Lords of the Committee of His Majesty's Privy Council appointed for the consideration of all matters relating to Trade and Foreign Plantations." Since 1864 the President has been a member of the Cabinet. One of the remarkable features of this Department is the number of Ministries in recent times to which it has given birth: out of the Railway Department came the Ministry of Transport; the Fisheries Department contributed to the Ministry of Agriculture and Fisheries; in the Labour Department originated the Ministry of Labour; the Mines Department went to making the Ministry of Fuel and Power; the Food Council to the Ministry of Food; and Sea Transport to the Ministry of War Transport. Some of the more important of these ministries we will deal with fully later. The growth of the Board itself is a matter of interest, showing how rapidly its activities expanded. To the original department of Statistics and Commerce was added a Railway department in 1840, to examine plans for new railways, inspect railways, inquire into accidents, and control tramways and gas, water and electric light companies; a Marine department in 1850, to survey channels, examine officers for the Mercantile Marine, regulate pilotage, wage-disputes and shipping offices; a Harbour department, 1866, to deal with harbours, lighthouses, piers, wrecks, quarantine and so on; a Finance department in 1866, and a Fisheries department.

Now the Board is concerned with matters of international commercial and industrial policy, and it is at present more closely interesting itself in internal commercial and industrial matters; with what result has yet to be seen. It administers certain statutes relating to joint stock companies, certain "key" industries, bankruptcy, merchandise marks, trade marks, patents (through the Patent Office), and copyright. It collects and publishes statistics of trade and industry in this country, the Dominions and foreign countries, and details of

customs tariffs, regulations and so on. The *Board of Trade Journal* is a weekly official publication by the Board of commercial information. The Department of Overseas Trade is controlled jointly by the Board of Trade and the Foreign Office.

The Commissioners of Crown Lands

George III, in 1760 surrendered the Land Revenues of the Crown for the Civil List—a fixed annual payment. The revenues, after the deduction of expenditure, are paid to the Exchequer Consolidated Fund (p. 15). The Land Revenues on Ireland have been paid to the Consolidated Fund since 1820; and those in Scotland were transferred to the Commissioners in 1833. A sum of about £1,300,000 is annually paid to the Exchequer free from administration expenses.

The Commissioner (ex-officio) is the Minister of Agriculture and Fisheries; the head of the permanent staff is the Permanent Commissioner.

The National Debt Office

The National Debt is the sum which the government has borrowed for public purposes, the interest on which is paid by means of taxation. In the Middle Ages to meet their current expenses monarchs not infrequently pawned their crown jewels: their debts consequently were relatively small and they were not allowed to accumulate to any great extent. It was the need for some fixed source of wealth that led to the formation of the Bank of England in 1694. The National Debt Commissioners were constituted by Act of Parliament in 1786; they are the Speaker of the House of Commons, the Chancellor of the Exchequer, the Master of the Rolls, the Lord Chief Justice, the Accountant-General of the Supreme Court, and the Governor and Deputy Governor of the Bank of England. Their chief function is the application of the Sinking Funds to the reduction of the National Debt. But Parliament has extended their duties so that they include the investment and management of many public funds, e.g., Savings Banks Funds, National Health and Unemployment

Insurance Funds, &c., the administrative control of Trustee Savings Banks and so on.

The head of the permanent staff is the Comptroller-General (this official must not be confused with those mentioned on pp. 12 and 16).

The greater part of the National Debt has been incurred by war. The Napoleonic Wars added about £600,000,000 and the War 1914-18 added about another £7,000,000,000 to the debt.

National Protection

At the outset we said one of the primary functions of a government is the protection of the lives, liberties and property of its people. For those of its people travelling, trading or residing beyond its frontiers this duty is the general responsibilty of the office for foreign affairs. And one may suppose that with this purpose in view it is usually to the mutual advantage of peoples and their governments—through their foreign offices—to pursue policies tending to promote conditions of amity between states. But unscrupulous men can, at any moment, bring good intentions to nought. So it is necessary to be prepared to resort to more active measures to ensure national protection and the recognition of national rights. Hence the need for those highly organised departments of state we are now to consider. They have not always been so distinctly separate as they are today while yet aiming at a common objective.

The Board of Admiralty

From the 15th to the opening of the 18th century, with certain breaks, the official responsible for British naval affairs was the Lord High Admiral. But since 1708, with one exception in 1827-8, the office of the Lord High Admiral has been put in commission, that is, his duties and responsibilities have been entrusted to a board—the Board of Admiralty. The Board now consists of the First Lord of the Admiralty, who is a Cabinet Minister; The First Sea Lord and Chief of the Naval Staff; the Second Sea Lord and Chief of Naval

Personnel; the Third Sea Lord and Controller; the Fourth Sea Lord and Chief of Supplies and Transport; the Deputy Chief of Naval Staff; the Assistant Chief of Naval Staff—these are all professional sailors of flag rank; the Parliamentary and Financial Secretary; and the Civil Lord—both being members of the government for the time being, and the Permanent Secretary who is a Civil Servant. The Board consists, then, of three members of the government, six sailors and a civil servant, and is responsible for the management of everything relating to the British Navy. Their duties involve advising the government on all matters of naval policy, the conception of plans to meet certain contingencies, the organisation of the fleets and their movements, as well as responsibility for their supplies and manning, even the education of the personnel. Of the members of the Board it should be noticed that the First Lord is the Minister who is responsible to the Sovereign and Parliament for the whole of Admiralty administration; the Parliamentary and Financial Secretary closely supervises matters of finance, estimates, and the purchase and sale of stores; and the Permanent Secretary is the ultimate authority, under the Board, for matters relating to discipline, appointments and promotion and so on.

The administrative and technical work of the Admiralty is done by officers of the Royal Navy and Royal Marines and Civil Servants, and divided between a number of departments too numerous to be mentioned here in detail, ranging from naval intelligence, plans and operations, medical services and education, legal and scientific, to naval construction, dockyards and victualling.

The War Office

In the more remote past the Sovereign delegated authority over the army to a commander-in-chief who was responsible for appointments, promotions, discipline and awards. Because of a certain anxiety that used to be felt in this country that a standing army might not be used for the purposes for which it was intended Parliament exercised a special vigilance over the supplies it voted. This money for the army was

paid through the secretary *at* war, who was the Clerk in attendance on the Committee of the Privy Council entrusted with the business now administered by the War Office. But neither the Commander-in-Chief nor the Board of Ordnance was actually subordinate to the Clerk. As we have mentioned (p. 18) when the Secretaryship of State for Home Affairs was created in 1782 it took over the administration of the army and the colonies. So matters remained for twelve years till, in 1794, a Secretary *for* War was created. The latter, in 1801, also took over colonial affairs from the Home Office. The fission of the Home Office thus produced the War Office. When, however, the Crimean War with Russia broke out in 1854 it was found necessary to relieve the War Secretary of colonial affairs. That led to the creation of a Secretary of State for the Colonies. The army was now the sole and entire responsibility of the War Office; the Board of Ordnance being abolished after an existence of three centuries, and the Commissariat Office taken over from the Treasury. Finally in 1870 the civil administrative functions of the Secretary of State for War and the military administrative functions exercised at the Horse Guards were absorbed.

The War Secretary

The War Secretary is a Cabinet Minister and as such is answerable to Parliament for the administration of his office. He is also the President of the Army Council, which was first formed in 1904 by Letters Patent. The other members of the Army Council are: the Parliamentary Under Secretary of State for War (also Vice-President of the Council), who is also a member of the government for the time being; the Chief of the Imperial General Staff; the Adjutant-General to the Forces; the Quartermaster-General to the Forces; the Master-General of the Ordnance—the last four being officers of general rank; the Financial Secretary of the War Office (and Finance member of the Council) who is also a member of the government; and the Permanent Under Secretary of State for War, who is also the Secretary of the Army Council. He is a Civil Servant. From time to time changes are made

in the composition of the Council so that other members may be included, but those we have mentioned may be regarded more or less as integral parts of the Council. The main purpose in detailing the membership of the Council is to indicate the broad lines on which the work of the War Office is divided. Thus the Chief of the Imperial General Staff and his staff direct matters relating to operations, intelligence, staff duties, military training and the inspectorates of various arms. The Adjutant-General controls discipline, recruiting, organisation, personal services, health services, &c. The Quartermaster-General is responsible for movements and quartering, transport and supplies, and veterinary services. Under the Master-General of the Ordnance comes matters relating to artillery, mechanisation, engineering and signals. Legal matters are dealt with by the office of the Judge Advocate General.

As with the Admiralty and the Air Ministry (which follows) the detailed work of administration is carried out by officers of the service working in conjunction with Civil Servants.

The Air Ministry

The application of aeronautics to warfare in the World War 1914-18 led to the formation of the Royal Flying Corps and the Royal Naval Air Service. These were subsequently amalgamated to form the Royal Air Force the control of which was vested in the newly created Air Ministry. The organisation of the Ministry in broad outline is very similar to that of the two senior services. At the head of it is the Air Council presided over by the Secretary of State for Air, who is also a member of the Cabinet; the Under Secretary of State for Air is the Vice-President of the Council and a member of the government; there are also four Air Members of the Council—officers of the R.A.F., viz., Chief of the Air Staff, Air Member for Personnel, Air Member for Research and Development, Air Member for Supply and Organisation; the Secretary to the Air Ministry (a Civil Servant) is the other member. From time to time the composition of the Council has been altered.

The work of the Ministry is divided between a number of departments under each of which is grouped a number of directorates, the detail of which we need not consider here. So control is extended downwards and outwards on the pyramidal system to the airfields and research stations.

We departed from the chronological sequence in treating of the central control of the three services together, but that is justified by the fact that all three services exist for a single purpose—national protection; the protection of the lives, liberties and property of the people. We will now return to the sequence of creation so as to observe the continual extension of the field of government with the passing of the years.

The Colonial Office

We have already recorded the fact that the administration of colonial affairs was assigned to the "Southern Secretaryship" until the formation of the Home Office in 1782; and that from 1801 to 1854 they were administered by the War Office, and that in the latter year a separate Secretaryship of State for the Colonies was created. Its purpose today is to serve as a final authority under the Crown and Parliament in the administration of the Crown Colonies and Dependencies, e.g., Newfoundland, Malta, Gibraltar, &c., some sixty in number. Generally the government of these colonies and dependencies is entrusted to a Governor appointed by the Crown, who may be assisted by an Executive Council and sometimes also by a Legislative Council nominated by the Crown. The Governor's direct responsibility is to the Colonial Secretary. The organisation of the Colonial Office by departments follows the general principles we have indicated with reference to the other State Departments, so there is no need to recapitulate them here. The Secretary of State, of course, is a Cabinet Minister; the Civil Service head is the Permanent Under Secretary of State.

The Crown Agents for the Colonies act as financial and business agents in this country for the governments of the colonies; they are appointed by the Secretary of State.

The India Office[1]

The first East India Company was incorporated in 1600; others were started at later dates but all were finally amalgamated with the original company in 1709. Until 1858 Indian affairs were administered by the East India Company under the supervision of a Government Board of Control the President of which was responsible for Indian affairs in Parliament. In this year the Crown took over India as part of the British Empire and a Secretary of State for India was created. He is a Cabinet Minister in the Parliament of Westminster. The supreme executive authority in India, subject to the direction of the Secretary of State, is the Viceroy and Governor-General who is appointed by the Sovereign; he is assisted by the Governor-General's Executive Council.

The Council of India is a body appointed by the Secretary of State to advise him. It consists of persons who must have served or resided in India. It meets weekly and at such other times as it may be summoned by the Secretary. It has the power of voting; but it may be overruled by the Secretary of State who is obliged to give his reasons for so doing. The Council is divided into a small number of committees, each of which controls a particular department.

The High Commissioner for India is appointed under the Government of India Act, 1919, to act as Agent in the United Kingdom for the Local Governments in India and for other purposes prescribed by the Governor-General in Council, who makes the appointment. The High Commissioner may also conduct such business as may be delegated to him from the India Office by the Secretary of State.

Ministry of Education

The first important steps towards the provision of systematic elementary education for the poorer children of this country were taken at the beginning of the nineteenth century, and they may justly be ascribed to Dr. Andrew Bell and Joseph Lancaster, a Scottish clergyman and a Quaker respec-

(1) Now Division B, Commonwealth Relations Office. Since August, 1947, India and Pakistan have been self-governing dominions.

tively. Owing to the activities of these men two societies were founded—the National Society for Promoting Education and the British and Foreign School Society in 1814. They relied on voluntary subscriptions. In 1834, after many efforts by men like Sydney Smith to arouse public opinion, and members of the Commons to promote Education Bills, the Government made a grant of £20,000 towards the building of schools by the two societies. In 1839 a Committee of the Privy Council was appointed to administer the grant, now increased to £30,000. So the nation, through its government, first assumed a general responsibility for the education of children whose parents could not, or would not, afford it. And the Education Act of 1870 may be said to be at once the foundation and the coping of a national system. By it school boards were set up with powers to levy rates for the provision and maintenance of schools, and to compel the attendance of children. All the Acts passed since, including the latest of 1944, are but a widening and development of the application of this original Act. The Board of Education under a President, with a Parliamentary Secretary and a Consultative Committee, was brought into being by the Act of 1899 and converted into a Ministry under a Cabinet Minister (the President had a seat in the Cabinet) in 1944.

As with all the Departments it is divided into a number of divisions and branches for administrative purposes, e.g., Finance, Legal, Training of Teachers, Salaries, Pensions, Medical. The several territorial divisions are under the supervision of Principals of the Civil Service. For the purpose of exercising direct supervision over the management and staffs of the country's schools there exists a very extensive inspectorate—H.M. Inspectors. On their reports to quite an appreciable extent depends the issue of the Grants from the Exchequer to the Local Education Authorities; and through these Grants the Ministry of Education exercises more than a nominal control over the Local Education Authorities, and indeed in a high degree influences the educational policy of the country as a whole.

This Ministry, which originated in the reforming years—

the first forty—of the nineteenth century, may be regarded as the forerunner of the "social service" Departments of State to which we will refer again later.

The Ministry of Health

In 1871 a statute was passed by which the Local Government Board was constituted for the purpose of concentrating in one department of the government the supervision of the laws relating to public health, the relief of the poor, local finance, and the work of local authorities generally. In 1919 the Ministry of Health was created to take over all the powers and duties of the Local Government Board, the Insurance Commission and the Welsh Insurance Commission; the powers of the Board of Education relating to maternity and child welfare; all the powers of the Privy Council and of the Lord President of the Council under the Midwives Acts; and most of the powers of the Home Secretary under the Lunacy and Mental Deficiency Acts. The Town Planning Division of this Ministry has now given rise to a new ministry—the Ministry of Town and Country Planning.

The political head of the Ministry (now very much a "social service" department) is a Cabinet Minister. The permanent staff is divided betwen a number of departments and branches, e.g., Legal, Medical, Audit, Engineering, the Accountant-General's department, and the Insurance department and the Old Age Pensions Branch which have now passed to another newly created ministry—the Ministry of National Insurance.

It exercises its powers and carries out its duties through a rather large number of inspectors appointed for a variety of purposes, such as watching over the proceedings of local authorities, auditing accounts and inspecting premises and plant.

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When considering the Ministry of Education and the Health Ministry above we referred to the "social service"

departments of State. Keeping in mind that, for the present, we are not concerned with political doctrine but only with the mechanism of government this is probably the most convenient place to enlarge on an important modern development in the use of taxation. It is true that from the earliest times a certain responsibility has been laid upon, and accepted by, local communities with respect to the poor and unfortunate in their midst—very limited responsibilities certainly; and in later times there have been imposed certain obligations with regard to health and sanitation and so on. But in the past forty years the conception of these responsibilities and obligations, under the name of "social services" has been so enlarged as to mark the introduction of a new idea—the idea of applying taxation to the purpose of redistributing the wealth (or what is accepted as the token of wealth) of the people according to the policy of the government as distinct from the operation of the economic factors of husbandry, industry and commerce (p. 15). The true significance of this idea of redistributing the wealth of the people in the guise of "social services" has yet to be fully realised. Not for a moment can one suppose that those who furthered the idea in the early days of this century saw whence they were going; but none the less as a system it possesses many disquieting features. For instance, there can be no doubt but that it tends to strengthen the governmental grip over a people through the diminution, we may almost say, destruction, of their sense of self-responsibility; and it is not an exaggeration to say that the idea carries all the germs which are destructive of the qualities which have made nations great in commerce and culture, wealth and wisdom—the readiness for enterprise, the thirst for adventure, the qualities of industry, of thrift and of self-reliance. Moreover, the application of taxation to this idea may well result in the destruction of those guarantees against oppressive government which limited and controlled coffers ensure a nation through leaving at the disposal of the government, out of the very large sums collected a very considerable residue. In such circumstances the way may well be opened to wholesale political immorality,

at the same time that the civil and political liberties of a people are placed in jeopardy by the increased power of governmental coercion derived from this added wealth. All these effects have been adequately illustrated in recent Continental history.

The idea of community help for those in *real* need and distress, and of communities joining together to undertake works of *mutual* advantage to them all but beyond the capacity of any one of them is commendable enough; but such assistance and works must be limited by considerations of *real* need and *mutual advantage*. Indeed the essence of true social service is that it shall be rendered discreetly and prudently; it can never be indiscriminate and mechanical.

Finally, we must remark the "social service" departments are by far the heaviest spending departments. Of them the Ministry of Education so far spends the most; but the new Ministry of National Insurance promises within the year to take first place with the Ministry of Health third.

Realising the discussible possibilities here opened we leave them commending them to the consideration of the citizen.

The Ministry of Agriculture and Fisheries

The Board of Agriculture for Great Britain was established in 1889. By the Board of Agriculture and Fisheries Act, 1903, it took over the work of the Fisheries Department of the Board of Trade (p. 22), and by the Act of 1919 was constituted a Ministry. It is responsible for the collection of statistics relating to the land and its uses; for the administration of the law as it relates to agriculture, which includes horticulture by definition; for the encouragement of agricultural education and research in problems relating to the soil, and to plant and animal life and diseases. Matters of land drainage and improvement come within its jurisdiction. The Ministry is also responsible for the research work of the Marine Laboratories and for matters relating to the fishing industry generally. The Ordinance Survey Department is now also under the supervision of this Ministry. More recently still it has become responsible for a number of

Marketing Boards which control the marketing and prices of certain crops and products, e.g., Hops, Potatoes, Milk, Pigs, Bacon, Herrings.

The Minister has a seat in the Cabinet. The Permanent Secretary is the head of the Civil Service staff ranging from legal advisers to naturalists, economists, marketing and investigation officers, and an inspectorate for animal diseases scattered over the country in divisional groups. The jurisdiction of the Ministry is limited to England and Wales.

The Ministry of Labour

This Department of the government came into being under the New Ministries and Secretaries Act, 1916, taking over the powers and duties of the Labour department of the Board of Trade, particularly with reference to the operation of the Labour Exchanges, Industrial Conciliation, Unemployment Insurance and Trade Boards. The work of the Ministry is divided between a number of departments: Solicitors'; Services and Establishments; Employment and Training; Finance; General and Independent Offices. It operates through a number of Outstations under Divisional Controllers set up in some of the principal cities of England, Wales and Scotland. Under the General Department comes the Office of the Trade Boards. These were originally set up by the Trades Boards Act of 1909 under the control of the Board of Trade and transferred to the Ministry on its formation. These organisations consisting of an equal number of representatives of employers and employees with a small number of members nominated by the Minister inquire into, among other things, industrial conditions, fix minimum rates of wages and they have power to adjust these as circumstances may require. They cover a number of industries. Under the heading of Independent Offices are the Office of the Umpire and the Industrial Court. This is a part of the negotiating machinery set up by the Industrial Courts Act, 1919, to which disputes between the Trades Unions and the Employers Associations are referred. The Minister may, however, appoint an arbitrator, or a special

board of arbitration may be selected by the parties concerned from the Minister's panel. During the recent war this Ministry was responsible for the operation of the National Service Acts and the application of military and industrial conscription through its local Labour Exchanges.

The Minister has a seat in the Cabinet.

The Ministry of Transport

The Cabinet Minister at the head of this department is responsible for a number of matters concerned with the railway system of the country: engineering, inspection, employment, etc. Under the Ministry's jurisdiction is the Railway Rates Tribunal and the Road and Rail Appeal Tribunal. The Roads Department has assumed a certain authority over the County Councils with regard to the principal highways in planning, design and so on. It administers the Road Fund.

Canals and waterways, the appointment of the Electricity Commissioners and the Central Electricity Board, established in 1926, are all under the final authority of the Transport Ministry. As we have already mentioned this Ministry grew out of the Railway Department of the Board of Trade.

The Dominions Office

The Secretaryship of State for Dominion Affairs was set up in 1925 to take over the business connected with the self-governing Dominions from the Colonial Office. The Secretary—through his office—is the connecting link between the British Cabinet and Parliament and the governments of the Dominions. Under this Department are the Overseas Settlement Department and the Overseas Settlement Board, both of which are concerned with the policy of migration and settlement within the Empire. This office is now, in 1947, being reorganised as the Commonwealth Relations Office—Division A.

The "ancestry" of this Department has already been traced (pp. 28-29).

H.M. Office of Works

The Office of Works was constituted in 1852, taking over certain duties previously performed by the Office of Woods and Forests. It is now responsible for all works provided for out of public funds, including the Royal Parks. The First Commissioner of Works is a Cabinet Minister, as indeed are the other Commissioners who are the Principal Secretaries of State and the President of the Board of Trade. The Secretary, H.M. Office of Works, is the official at the head of the permanent staff which, apart from the usual grades of the Civil Service, includes professional specialists such as accountants, architects, surveyors, structural engineers and mechanical and electrical engineers. Of course, such specialists are also found, to a greater or lesser extent, in other government departments, e.g., the Post Office.

The Secretary of State for Scotland

There are two Ministers for Scotland. The Secretary of State was first appointed on the union of the Crowns of Scotland and England in 1707; but his office was abolished in 1746 at the close of the rebellion of 1745 (the '45). From 1782 to 1885 Scottish affairs were dealt with by the Home Secretary, who was advised by the Lord Advocate. The office was revived in 1885 and created a Principal Secretaryship of State in 1926. The Secretary of State of course has a place in the Cabinet. The Under Secretary of State ranks as a junior minister. There are also the two Law Officers specially appointed for Scotland—the Lord Advocate and the Solicitor-General.

The office of the Secretary of State is in Edinburgh, but there is the Scottish Office in Whitehall. The administration of Scottish affairs is principally under the Departments of Agriculture, of Education, of Health, and Prisons for Scotland, whose functions correspond to those of the Central Departments in Whitehall.

. . . . . .

There are several other ministries (some carrying Cabinet rank) mainly created or revived for the conduct of the recent war, e.g., Food, Supply, Aircraft Production, some of which may become permanent while others will be wound-up or reduced in status. It would be pointless to attempt to review them all because of the frequency of change in recent times. We have examined the principal offices in some detail to reveal the pyramidal form of the division and sub-division of government administration between departments and branches and divisions of departments; and to remark the systematic distribution of the country into areas and sub-areas for the purposes of control and supervision. We have deliberately stressed the Cabinet connection with the Departments and departmental staffs because there is the essential link between the Law-Making body and the Law-Operating and Administrative Offices; above all there is the link, the only link between the electorate and the State permanent official. In principle the system is analogous to that applied to the mass production of motor cars; and fundamentally it is the military system applied to civil purposes. The great advantage of the system is that by the multiplication of a number of minute "repetition" tasks it makes possible the employment of large numbers of less skill and intelligence than would otherwise be the case. The whole system, in fact, relies rather on the inculcation of habit than on the cultivation of intellect. Even the higher control of such a system demands little more than a good average intelligence, sometimes supplemented by a little imagination, for the devising of the machinery to make policy effective, and of the schemes of cross-checking and cross-referencing, tabulation and analysis and indexing and filing of information and the like is left to the specialists in their science. In the application of the system to industry the limits of sub-division are imposed by economic factors; but in government administration, especially at the higher levels where every fresh division entails completely staffing a new pyramid, the limits of sub-division have yet to be properly understood. This is an important matter for there must be preserved a just propor-

tion between the meditative, muscular and oracular labourers, as Ruskin called them in his essay *Ad Valorem*, if the productive capacity and vigour of a country are not to be sapped.

II.—THE POLITICAL STRUCTURE

In the review we have just completed we have mentioned that the ministers at the head of the state departments are the political links between the permanent staff—the Civil Service—and the government for the time being. That point brings us to the necessity for discussing the Cabinet, its history and its functions; for it is here that its ministerial members bring together the threads they have gathered from the apices of the departmental pyramids to be woven into the pattern of governmental policy. The Cabinet is the coping of the political structure.

The Origin of the Privy Council and the Cabinet

By the ancient constitution of the monarchy in this country the king had his privy council composed of the great officers of state and such others as he chose to summon to it, bound by an oath of fidelity and secrecy, to debate and determine, usually in his presence and by a majority vote, subject to his pleasure, all matters of state policy: both domestic and foreign. The body was a numerous one, and it appears certain that the more influential and confidential advisers of the sovereign had from remote times been in the habit of forming an inner cabal, or cabinet. At the time of which we are writing the ministers who had charge of public affairs were the servants of the sovereign rather than of the House of Commons; they were chosen singly by the king, and singly were dismissed by him. It was to him they looked for direction and to him that they held themselves responsible. If the House by impeachment or other indirect means could force the removal of a minister who acted against its will it had no means of replacing him by one more pliant; and towards the close of the seventeenth century Parliament seems to have realised that it had little real control over the

executive administration. As to the cabinet council, reference to it may be discovered as far back as Elizabeth's reign, it is certainly mentioned in the time of Charles I to distinguish it from the privy council as a whole, and in the time of William III the distinction between the cabinet and the whole body of the privy council was even more pronounced. It was indeed the subject of protest that matters were resolved in the cabinet and placed before the council for assent without reasons being shown; that none knew who gave the advice, and that none could determine whose was the responsibility for it. But do not let us ascribe undue antiquity to the Cabinet system as we are accustomed to think of it. William III, who was a man of high political ability, in fact was far from accepting such a system; though he does appear to have attempted to reproduce in his cabinet the balance of the parties in the Lower House.

In 1694 the commendable inquisitiveness and vigilance of the House exposed a mass of corruption which even involved the Speaker, Trevor; and in 1700, in the affair of the Partition Treaty, William did not even consult his cabinet—though admittedly he let members into the secret of his intentions. These events, together with other matters of history, which we cannot discuss here, doubtless did produce a crisis in the conduct of state affairs. Now to the combination of these events of 1694-1700 and the counsel said to have been offered to the king by that despicable and consummate political intriguer, Robert Spencer, 2nd Earl of Sunderland, to choose his ministers exclusively from among the party which was strongest in the House of Commons, and thereby recognise its newly acquired power, most historians ascribe the origin of the modern system of Cabinet government. But others dissent, not without reason, and regard the first quarter of the eighteenth century as the critical period. In 1705 there was repealed a provision of the Act of Settlement, 1701, that after the accession of the House of Hanover all resolutions on government should be debated in the privy council and signed by those assenting. That step once again reduced the full privy council to a formal position and at the

same time made possible the secret meetings of the Cabinet. In 1714 George I—a Hanoverian unable to speak English—ascended the throne so that the country was really governed by the Ministers of the Crown who were also the representatives of a single political party. So, if we cannot say there is the definite moment of change (and it was not understood as such at the time) we can at least say there, in that period, is the link between the cabinet of the privy council of times gone by and the cabinet of today whose members are sworn members of the privy council.

The Modern Cabinet

The modern Cabinet, to use the simplest language, is a committee of the leading men of the political party occupying the majority of the seats in the House of Commons (though not necessarily supported by a majority of the votes cast by the electorate: a significant point). In its composition it resembles any other committee—its chairman is the Prime Minister, there is now a Secretary (he is not a member of the government but a permanent official, the head of the Cabinet Secretariat) who keeps an official record—the minutes—of the secret proceedings of the meetings, for all Cabinet proceedings are secret or, at least, confidential. And of course the treasurer of any ordinary committee is here represented by the Chancellor of the Exchequer. The remaining members of the committee are the Principal Secretaries of State and those Ministers whose office gives them a seat in the Cabinet. Sitting around a table they proceed to discuss those matters—the agenda—for which the meeting has been called; each Minister having been summoned by a message from the Prime Minister's private secretary. Decisions are taken which may be the result of complete agreement or of compromise. For that reason a scheme or course of action resulting from these discussions is seldom the product of a single mind but a synthetic product of discussion; and, once a scheme or course of action is decided upon it becomes the responsibility of the whole Cabinet, severally and collectively. "Now is it to lower the price of

corn or isn't it? It does not matter what we say, but mind, we must all say the same!" Lord Melbourne is reputed to have said as he stood with his back to the door of the Cabinet room. Of course failure to reach agreement or an acceptable compromise would lead to the resignation of the Minister concerned, and in certain cases to the resignation of the whole Cabinet. If the Prime Minister resigns it naturally follows that the Administration falls and the Sovereign invites the leader of the Opposition to form a new government or an appeal is made to the country in the form of a General Election.

During the later part of the last century and throughout this century the tendency, as we have noticed, has been to increase ministerial offices, many of them with seats in the Cabinet. So the Cabinet has grown in numbers, and, like the numerous Privy Council it superseded, it has become too large for close discussion and quick decision: consequently there has reappeared the inner Cabinet consisting of a few of the more prominent ministers. In fact a position has been reached not unlike that of the time of William III when the small inner cabal reached decisions committing the whole of the Council without their being parties to the discussion.

We must also notice that the Cabinet—this supreme committee—resolves itself into a number of sub-committees, e.g., the Cabinet Manpower Committee of recent times, for the purpose of advising and reporting on special matters to the Cabinet as a whole.

Responsibilities of the Cabinet

So much then for the *modus operandi* of the Cabinet. As to its functions this supreme committee, although not known to the law, is with the Crown, the constitutional executive. The Cabinet bears a two-fold responsibility, on the one hand to the Crown, and on the other to Parliament which, of course, is ultimately a responsibility to the electorate for getting things done and for the consequences of their being done. It is also a legislative body because its members are responsible for initiating by far the greater part of legislation, either for

the direct purpose of giving effect to the policy of the government or for the purpose of facilitating the operation of the State Departments. Finance bills, indeed, can be introduced only by the responsible Cabinet minister. When a measure of fresh legistlation is proposed the principles to be embodied in the Bill are roughly drafted by the Minister concerned (with the assistance of his advisers) and then laid by him before the Cabinet for consideration and discussion. On agreement being reached as to the principles involved the draft is sent to the Government draftsmen (lawyers) who, with the co-operation of the permanent officials of the Department concerned, will embody the principles in the clauses of a Bill drawn in legal terms. It may occupy the draftsmen some weeks before the draft Bill appears arrayed in a language few laymen understand; the Bill is then ready for its introduction in the House of Commons. We will trace its stages in the House in detail later.

There is yet another way by which the Cabinet and its individual members exercise their legislative powers. It is important that the citizen should realise the extent to which we are governed at present by Orders in Council, which hardly come within the direct cognizance of the House of Commons. Orders in Council are of two kinds: the Prerogative Orders in Council which are governmental acts independent of any special statutory authority; and the Statutory Order in Council which is more commonly used as the means of enacting an immense amount of subordinate legislation. The Orders are actually drafted in the Department concerned; their ratification by the Council, which conventionally consists of the Sovereign, the Clerk, and not less than three Privy Councillors, is purely formal. Moreover, Ministers may by the terms of an enabling Act have delegated to them further powers of sub-legislation—the making of rules and orders—which they in turn may delegate to officials and representatives. In reply to a question in the House of Commons recently it was stated that in the Ministry of Health there are forty-one Civil Servants, from the Permanent Under-Secretary down, entitled to sign statutory

rules and orders having the force of law. Of other Departments it is reported this power is delegated by the Board of Trade to 103 officials; by the Ministry of Fuel and Power to 38; by the Ministry of Transport to 30; by the Supply Ministry to 13; and by the Labour Ministry to 10. These legislative powers of Ministers, and Departments, to make orders, rules and regulations—often referred to as delegated legislation—have in recent time engaged the attention of lawyers and others concerned that Parliament may have surrendered so much authority and control to Ministers—in fact to the permanent officials of the Civil Service—that it may have impaired its own legislative functions as well as its capacity to safeguard the liberties of the people. This, however, is not the place to discuss the complicated problem of delegated legislation; but it is worth while to attract the reader's attention to the probability that in the not too distant future the citizen may have to decide the question "Who Rules?"—the elected Parliament expressing the Will of the People or the Executive which, in certain circumstances, might only express the will of a political caucus.

The Legislature

Parliament consists of two Houses; the Lords and Commons. If in describing them we reverse the usual order and treat of the House of Commons first it will be both logical and convenient having regard to the relative importance of the Commons House as a legislative body and to the fact that most legislative acts pass from the Commons to the Lords. So that we may describe in detailed sequence the complete cycle of events from the time that it becomes clear there must be an appeal to the will of the nation to the opening days of the first session of the new Parliament and the formation of the new Cabinet, let us suppose that the normal term of office (five years) has expired. The dissolution of Parliament is effected by a royal proclamation issued by the Sovereign, "by and with the advice of Our Privy Council"—that is, the resigning Cabinet, and published in the *London Gazette* a few days after Parliament has been

prorogued, or adjourned. By the terms of the proclamation not only is the fact of the dissolution of the present Parliament set forth but also the calling together of a new Parliament. To this end the proclamation commands the Lord Chancellor to "forthwith serve out writs in due form and according to law." These writs, bearing the Great Seal and the signature of the Clerk of the Crown, are issued from the Crown Office at the House of Lords to the Returning Officers of the constituencies—the sheriffs for counties and the mayors for boroughs—on the day that Parliament is dissolved. On this printed parchment the Returning Officer enters the date he receives it; the postal authorities also require a receipt for its delivery. The Writ is retained by the Returning Officer until the election is complete. It is the duty of the Returning Officer on receiving the writ to advertise the date and place, when and where, he will attend to receive nomination papers on behalf of candidates. There are specified time intervals to be observed between the receipt of the writ and nomination day and between nomination day and polling day; hence the reason for particularly noting when the Returning Officer receives the writ.

A General Election

A General Election is a long anticipated event by the various party organisations, by sitting M.P.s, and by the prospective candidates. Throughout the time he is sitting in Parliament a member, with the aid of the local party organisation, will do all he can to "nurse" the constituency in the interests of the party he represents: speaking at public meetings, arranging special meetings more or less informally to hear the views of his constituents and reply to their questions, opening bazaars and fetes, and probably subscribing with some liberality to local charitable and sports organisations; in fact doing everything he and the local party agent can think of to create a favourable impression and keep himself in the mind and eye of the electorate. At the same time the local party organisation, drawing on the strength of the central body of the party for lecturers, propaganda

"literature" and other publicity aids especially the local press, does everything possible to "politically educate" the electors in party policy and doctrine. The rival organisations in like manner make every endeavour to advance their cause and improve the chances of the candidate they sponsor so that at the crucial moment they may wrest the seat from the sitting member. Not infrequently there will appear on the scene, to pit his wits—and perhaps his charm and cash—against a comparatively wealthy organisation, a man of independent view, owing allegiance to no party. Usually, though not always, he is a man who has made a local reputation for himself animated by ambition or ideal to make his voice heard in the council of the nation. Such a man must build up his own electioneering machine and pay for his publicity. Oddly enough, in view of the apparent inequality of the contest, independent candidates not infrequently win a seat in the House.

The Party Machine

As the polling day approaches activity increases; committee rooms are opened displaying propaganda posters, party colours, squibs, cartoons and piles of pamphlets and leaflets, the agent is busy arranging for the more enthusiastic supporters to canvass the electors and the candidate himself tours the constituency street by street, often more than once, making a personal canvass and addressing odd groups of the people as well as the larger public meetings arranged by the agent. These are the externals of the campaign with which most are familiar. It will be more interesting to examine the machines responsible for all this activity.

Each of the political parties maintains a central headquarters in London with affiliated branches in every polling district. The polling district branch is the smallest unit of the organisation. In rural areas the district corresponds to the civil parish, in towns and cities to the municipal wards. Its officers are usually a chairman, vice-chairman, treasurer and secretary (honorary offices) acting with an executive committee which consists of members from each of the

districts, or hamlets, within the branch area. As vacancies occur fresh appointments are made at the annual general meeting of the branch to which the electors of the polling district are invited. From each of these branches a representative is sent to the constituency council or "Parent Association" as it may be called, which in turn sends its chairman and about two members with the principal party agent to form the party council for the county or borough. These county and borough councils of the political party send their chairmen and three members each to serve on the central council at its meetings. So the pyramidal form of organisation by which control is exercised from the top appears again; in this instance the party is based on the affiliated branches of the constituencies, its coping is the Party Executive Committee. This committee, in some cases referred to as the National Executive, includes most of the leading members of the party many of whom, if the party obtains a majority in the elections, would take Cabinet office. Here it may be said that party policy originates subject to a certain extent to the general veto of the party conference. These machines will not function without money; in fact they require a lot of it to keep them going. The older parties are financed principally from the donations of their members and the subscriptions and contributions of such as they recruit to their ranks; the junior of the parties in this country derives its funds from the more or less automatic collection of contributions through the trades unions and from the Political Purposes Fund set aside from the profits of the Co-operative movement. These funds—"the war chest"—are placed under central control. We have said enough here to identify the source of all the political activity at the time of a General Election.

Selection of Candidates

There is one more point, arising out of this systematic organisation of political parties, to discuss before we turn back to watch events as they move towards polling day. It is the *selection* of candidates. In the case of candidates

sponsored by parties it has to be admitted that the constituency electors have very little to do with the selective process. Within each constituency association there is a Selection Committee for the purpose of choosing from the nominees put before it someone who, apart from his general fitness and ability to represent the constituency, is prepared to satisfy certain other conditions. These conditions are laid down, or approved, by the party usually on the advice of an advisory committee. If a prospective candidate is not prepared to comply with the conditions he stands no chance at all of adoption—recognition and support—as an official party candidate; for he not only has to be recommended by the Selection Committee but also approved by the party headquarters. Before being interviewed by the Selection Committee the candidate is often required to complete a questionnaire. Not so very long ago the principal agent for the Conservative Party at the time admitted that a questionnaire had been issued to nominees which contained in particular two questions: (1) "Are you prepared to pay all your election expenses? (2) "Are you prepared to subscribe to the association an annual amount equivalent to the salary of a full-time agent?" In the same report he is also quoted as saying, "In normal circumstances a candidate should not be asked to pay more than £100 per annum to the general funds of the constituency association. . . ." In regard to the first question the candidate is no worse off than the man who decides to offer himself independent of party; but the second question appears to place the party candidate at a distinct disadvantage. One may well be inclined to ask what reason or inducement can there be for a man to accept this preliminary disadvantage. Of the Socialist or Labour Party, as it is variously styled, an ex-member has stated that a prospective candidate must first undertake in writing that, if elected, he will observe the standing orders of the party, one of which lays down that he may not vote in the Division Lobbies in a sense different from that determined by the party in private. When confronted with facts such as these it may not be unreasonable to ask: Is not this system of selec-

tion likely to preclude an otherwise fit and proper person from sitting in Parliament for want of financial resources? Is not an upright and intelligent man likely to be deterred by an undertaking which may require him to vote contrary to the dictates of his intelligence and conscience? This selective process by the parties is carried out, as far as possible, well before the advent of the election so that prospective candidates may be groomed and vetted in party ways and doctrine and Parliamentary procedure and so on.

Nomination Day

Between the time of the issue of the Election Writ and Nomination Day candidates will obtain nomination forms and get them completed ready for handing in to the mayor of the borough or the sheriff of the county at the time and place appointed. The completed nomination form shows the name, abode, profession or calling of the candidate together with the names and addresses of two registered electors, respectively his proposer and seconder, and of eight other asenting burgesses (assentors). As a rule a candidate gets several of these nomination papers completed so that there is no risk of the nomination being declared null and void if there is an irregularity in one of the papers. When the candidate hands his papers to the Returning Officer, mayor or sheriff, the Returning Officer will require a deposit of £150 which the candidate will forfeit to the Exchequer (except in certain cases, e.g., Universities defraying electoral expenses) if he fail to poll a certain percentage of the votes cast. It is the duty of the Returning Officer to refuse to accept the nomination of any person disqualified by statute.

Polling Day

For polling day a room in the local schools is often taken as the polling booth and, apart from the necessary tables and chairs, is equipped with small cubicles to which the voter retires to mark the ballot paper so that none may observe how he records his vote. On the day the polling booth is open from eight in the morning till eight in the evening under

the control of the presiding officer who represents the returning officer for the constituency. The only other persons who have authority to remain in the polling booth are the clerks assisting him and the polling personation agent looking after the interests of each candidate. When a voter presents himself the presiding officer first satisfies himself as to the voter's identity according to the voter's register. The responsibility for compiling a Register of Electors is that of the Registration Officer for the area; usually it is the Town Clerk of a Parliamentary Borough and the Clerk to the County Council for a Parliamentary County. The register should include every person over 21 years of age, not subject to any legal incapacity, who has the required qualification by residence or the use of business premises in the Parliamentary Borough or County. There is, of course, a separate vote for University graduates. On the publication of the lists electors should examine them to see that the entries are correctly made; if they are not a claim or objection should be made according to the directions given on the notice. It is usual for the candidates, among the "literature" they send out to each elector on the register to include a paper giving the elector's number on the register as well as the place of polling; otherwise the voter must obtain it from the lists at the Registration Office or from those displayed in post offices, police stations, and on the doors of chapels and churches. When satisfied as to identity the presiding officer hands the voter a ballot paper. These are made up in cheque book form, the counterfoil of each ballot paper bearing the number of the ballot paper. Before tearing the ballot paper out of the book the presiding officer enters the voter's register number on the counterfoil and marks off the register. Then affixing the official stamp on the ballot paper he hands it to the voter who retires to the cubicle and places a cross against the name of the candidate of his choice. The voter then folds the paper so that his recorded vote is inside and the official stamp outside; displaying this to the presiding officer to assure him that it is in fact the ballot paper with which the voter was issued, the voter drops it into the locked ballot box. So the elector

records his vote. This is the secret ballot. It is interesting to notice that though it is secret to the extent that no one at the polling booth can possibly know how a vote is recorded it would be possible, if some almost inconceivable circumstances should make it necessary, to trace the ballot paper through the number on the counterfoil which also bears the voter's register number.

The Count

When the polling station is closed at eight in the evening the presiding officer is responsible for the safe conveyance of the ballot box to some central place, town hall or council house, where the votes will be counted under the sole control and direction of the returning officer. He may not record a vote at the election, but in the event of a tie between candidates he may, if a registered voter, give a casting vote. Usually when voting runs so close the candidates will demand a recount, sometimes several recounts. The count over the returning officer publicly declares the successful candidate, and returns the election writ forthwith, duly endorsed with the successful candidate's name, to the Crown Office at the House of Lords (p. 44).

III.—THE NEW ADMINISTRATION

The excitement and commotion of the election over the newly returned member will prepare to make his way to Westminster for the opening of the new Parliament on the day appointed in the Election Writ (p. 44). As soon as the election results for the country are finally known if the existing governmental party is returned to power the Sovereign will send for the Prime Minister inviting him to continue his Administration; otherwise the Prime Minister will seek an audience of the Sovereign and tender his resignation advising the Sovereign to send for the leader of the party having the majority of seats in the House. On accepting the Sovereign's invitation to form an Administration the new Prime Minister will busy himself putting the final touches to his proposed

Cabinet; making the final distribution of offices between the prominent men of his party. It is not an easy matter, this sifting—"There is always the temptation among the old gang . . . to hang on a little longer, perhaps, than for the good of their country they should," a politician is reported to have said not so long ago. The older members naturally think their long service and experience with the party entitles them to the more important offices, while the ambitious and pushing among the younger party members are not slow to urge their claims to the spoils of office. So we may well believe that there are great comings and goings in the ante-rooms of the new Prime Minister: "a great fishing for seals these days" as Lord Roseberry once described it. There are doubtless many men animated and urged by a genuine desire to render service to their country without thought of honour or reward. But it will be well for us to keep our feet firmly planted on the ground and to recognise that this is not always the case. The evidence is provided by men who have themselves sought and held high office. Here are a few words of Lord Shaftesbury on the matter: "The selfishness, the meanness, the love of place and salary, the oblivion of the country, of man's welfare and God's honour have never been more striking and terrible than in this crisis. These added to the singular conceit of all the candidates for office—and all have aspired to the highest—have thrown stumbling blocks in Palmerston's way at every step. The greediness and vanity of our place-hunters have combined to make each of them a union of the vulture and the peacock."

The New Cabinet

The new Cabinet having been formed the seals of office are collected by the Clerk of the Privy Council from the out-going Ministers who a little later in the morning are summoned to the Palace when they personally hand their seals to the Sovereign and take their leave. Soon afterwards the new Ministers arrive to receive the same seals from the Sovereign and kiss hands on appointment. So the selections of the Prime Minister are confirmed by the Sovereign. The

seals, by the way, are small metal discs bearing a device or image; they are never used for any other purpose by the Minister.

All Cabinet members hold salaried appointments: the highest paid being that of the Lord High Chancellor—£6,000 as *ipso facto* presiding judge, Chancery Division, and £4,000 as Speaker of the House of Lords. Most of the other offices carry a salary of £5,000. The salaries of junior ministers range from £2,500 down to £1,200. There are exceptions. For example, the Attorney-General receives £4,500 plus fees, the Paymaster-General is unpaid. So also is the Prime Minister as such; it is usual for him to combine his office with another carrying a salary, in recent times it has been the office of First Lord of the Treasury. There are also some offices carrying a salary with practically no duties; sinecure offices which serve the purpose of retaining the experience and counsel of certain eminent men at the disposal of the government. For instance, the Lord President of the Council and the Lord Privy Seal both have seats in the Cabinet, though the office of the Chancellor of the Duchy of Lancaster does not admit him to the Cabinet. These offices carry £2,000 a year. There are pensions available for ex-Cabinet Ministers in case of proved necessity.

To complete our discussion of the Cabinet we would mention that after its formation, if it be a new Parliament, as we here suppose, it will fall to the new Prime Minister to write the Sovereign's Speech for the opening of Parliament, embodying in it the legislative programme of the new government.

The House of Commons

i.—The New Parliament

The new Parliament can do no business until it has elected a Speaker and the members have taken the oath. On the day appointed for its assembly the House of Commons will meet and await the summons to the bar of the House of Lords by Black Rod. There, headed by the Clerk they will be commanded to proceed to elect their Speaker. This elec-

tion is the only business of the first day. On the following day the Commons will again be summoned to the bar of the House of Lords to hear the royal approval of their choice, and Mr. Speaker-Elect becomes Mr. Speaker. Although a party member and representing a constituency from the moment he takes the Chair he becomes an impartial person, taking no part in the debates and divisions save for a casting vote in the event of a tie. This second day and the next day or two are taken up with the swearing in of members and their signing of the Test Roll. When this is completed the House is duly constituted and may proceed to business as soon as the Speech from the Throne has been delivered; that is the official opening of the Session. The Debate on the Address follows.

ii.—A Normal Day

On a normal sitting day, after prayers have been read by the Speaker's chaplain, the public and press may observe and report the proceedings of the House from their respective galleries. Anyone desiring to avail himself, or herself, of the opportunity may obtain admission to the Stranger's Gallery during the session by Member's order, or by order obtained on personal application at the Admission Order Office, in St. Stephen's Hall. Prayers ended the Mace is placed on the table and, if forty members are present, the doorkeeper shouts, " Mr. Speaker at the Chair " and the day's business begins. If, by the way, at any time a member should demand a " Count " and forty members—the quorum —cannot be mustered the sitting comes to an end. The first half hour is devoted to the consideration of Private Bills, to moving the issue of new election writs when a seat becomes vacant, receiving Petitions and so on. Petitions to the House, as such, have very little to commend them because after formal presentation the House sees them no more. When a member is given a petition to present he rises in his place, announces the fact, reads a brief summary of the prayer or request, and is asked by the Speaker, " Will the honourable member bring it up?" The honourable member walks to the

table and drops the petition in a green baize bag behind the Speaker's Chair, hung there for the purpose. Such an occasion was reported in the following terms recently: "Before questions were called, Vice-Admiral ——, (Cons.), arose and said, 'Mr. Speaker, I beg to present to the House the humble petition of the residents of P——: That in the state of food rationing they consider that they and their families are undernourished. "Wherefore, your petitioners pray that there be no further cuts in the rations, but rather that the rations be increased on amount and variety. The number of signatures is 10,000.' Vice-Admiral —— then formally handed the petition to the Speaker." The presentation is recorded on the Journals of the House and the petition is passed to the Committee on Public Petitions for scrutiny, mainly to see that regulations have been complied with.

iii.—Question Hour

Question hour follows. It is a valuable institution affording members the opportunity of eliciting information from Ministers on a great variety of matters relating to their respective Departments. Though in many cases questions asked on the floor of the House have little more effect than ventilating a grievance, real or imaginary, they often do tend to keep in check abuses or irregularities, and even wrongs, which may arise from the mechanical operation of a Department taking little or no account of the individual, or of the circumstances of a case. Departmental officials generally have a wholesome regard for and dislike of Parliamentary questions; especially when they have erred. The question to be put is handed, in writing, by the member to one of the Clerks at the Table to be printed on the notice paper which contains announcements of coming events and is circulated to members every morning. Copies of these notice papers are sent to all the State Departments. In each Department the permanent officials prepare the answers to the questions addressed to the Minister at its head. Only on matters involving the highest considerations is it necessary to consult the opinion of the Minister himself. Two or three days notice of a ques-

tion is required—for the answer to the question may not be found in the headquarters of the Department. The questions to be asked each day are printed in the Orders of the Day: the daily agenda of the proceedings of the House. The answers are sent by messenger from the Department to the House in locked despatch boxes, one key of which is kept by the Department and another by the Minister. To expedite business the questions on the Order Paper are numbered, so that when the Speaker calls on a member to put his question the member rises and simply says, "I beg to ask the Secretary of State for the Colonies question No. 4." The Secretary for the Colonies reads the reply. If not quite satisfied with the reply any member may try to elicit further information by immediately putting a supplementary: he may get no reply.

iv.—A Motion for the Adjournment

After questions the legislative business of the sitting begins, unless a motion for the adjournment of the House intervenes. The purpose of such a motion is to obtain from the Government an explanation of some matter, it may be an act of omission or of commission, which in the opinion of the Opposition constitutes what is described in the Standing Order as a matter of "urgent public importance." To move the adjournment of the House a member must have the support of at least forty members, so, when he rises after questions for this purpose, at the same time stating the object of the motion, the Speaker asks if he has that support. Immediately the supporting members rise in their places, and if they in fact muster forty the debate proceeds. Seldom does the Speaker rule the motion out of order on the ground that it is not a matter of "urgent public importance"; he accepts the opinion of the forty supporting members. It is seldom that such a motion is carried, but if it is the House immediately adjourns to the cry of "Who goes home?" On the motion failing the House proceeds with legislative business. After the Clerk has read the title of the first of the Bills on the Order Paper the body of the House becomes a debating

chamber—" a grand forum of debate." At the conclusion of the debate, which will usually extend over several sittings, the Speaker will put the question, " The question is that this Bill be now read a second (or third) time. As many as are of that opinion will say ' Aye '." After a shout of " Aye " the Speaker continues, " The contrary ' No '," followed by a shout of " No." Following the Speaker's decision, " I think the 'Ayes' have it " if the Opposition wish to challenge a division they will again shout " The ' Noes ' have it " The Speaker then orders strangers to withdraw and the electric bells installed all over the precincts of the Palace of Westminster are rung to the accompaniment of the shouts by the police on duty " Division! " summoning the members to the Chamber to vote. Two minutes are allowed for the members to assemble before passing into the Division Lobbies—the " Ayes " by the door behind the Speaker's Chair and the " Noes " by the door under the clock. The Division Lobbies are two corridors running round the Chamber so that members re-enter the Chamber by the door opposite that by which they left. In passing along each of the corridors the members pass two clerks sitting at a desk; the clerks tick off their names on printed lists as they pass. At length the tellers—two for the Government and two for the Opposition, named by the Speaker before the division—appear in the Chamber and hand the result of the count for their respective sides to the Clerk; he writes the figures on a slip of paper and hands it to the principal teller for the side that has won. So the result becomes known to the House; the principal teller for the victors reading out the numbers voting on either side.

IV.—THE PROCESS OF LAW-MAKING

i.—The Introduction of a Bill

It may be that the Stranger in the Gallery will be privileged to witness the introduction of a Bill in the House, for which leave must be asked. It is a simple ceremony. A notice appears on the Order Paper naming a member who asks leave to introduce the Bill, the title of which it quotes. At the

appointed time the Minister in charge of the Bill makes his motion for leave, accompanied by a brief explanatory speech of the provisions of the Bill. Leave being given unanimously or on division the Speaker asks, "Who is prepared to bring in the Bill?" The Minister in charge reads the names of three or four members of the Government, including himself, who have "backed the Bill." The Minister then walks to the Bar and returns up the floor to hand to the Clerk what purports to be a copy of the Bill: it is often a folded sheet of note-paper with the name of the Bill written outside; in any case it is a dummy copy. The Clerk then reads out the title and adds, "Second reading." "What day?", asks the Speaker. The Minister names a date and the day is fixed for the second reading (the next stage) of the Bill. So ends the introduction and first reading. The Bill will now be printed and circulated amongst members. There are five distinct stages in the passage of a Bill through the House: the first, second and third reading with the Committee and Report stages between the second and third reading. The battle of the Bill begins in earnest with the second reading, a debate by the whole House with the Speaker in the Chair which, according to the contentious character of the measure, may extend over a week or fortnight—not of course occupying every sitting in that time, but certain allotted sittings. If the Bill is not rejected at this stage it goes on to the Committee stage to be considered clause by clause with the amendments proposed by members, each of which is considered separately and accepted or rejected. In this stage the original Bill may undergo considerable change. When the House goes into Committee the Speaker leaves the Chair giving place to the Chairman of Committees who takes his seat at the table in the Clerk's chair. When finally the Committee has disposed of all the clauses and the amendments and put the Bill into a form acceptable to itself the Chairman puts the question, "That I report this Bill with amendments to the House." That agreed to the Speaker is sent for, the mace placed on the table, and the House resumes its sitting. The Chairman of Committees reports to the Speaker that the measure has

passed through Committee. In the event of a Bill passing through Committee without amendment it may be read at once for the third time and its career in the Commons closed. The fourth—the Report—stage reached, amendments and even new clauses may be proposed; the Bill may even be sent back to Committee. But usually this stage is brief and confined to points not considered in Committee. The last the fifth, stage is the third reading, a debate in which the principles of the Bill are attacked and defended. It resembles the second reading with this difference the Bill cannot now be altered in any way; it can be only wholly adopted or rejected on a division. On passing this reading the Bill is taken by the Clerk of the House to the bar of the House of Lords, and there, desiring the concurrence of their lordships, he hands it to the Clerk of the Upper House. We have already noticed (p. 12) that when the business of the House relates to the expenditure of money it sits as the *Committee of Supply*, and when it deals with the revenue, the annual income of the State, it sits as the *Committee of Ways and Means*. In the former the Estimates are considered, and the Budget is brought forward in the latter. The Chairman of Committees presides over both.

ii.—Types of Bill

There are three different kinds of Bill, according to their source of origin; a Public Bill is a government measure, sponsored by the Cabinet, "backed" in the House by members of the Administration, and drafted by the Parliamentary draftsmen in conjunction with the legal staff of the Department principally concerned. When passed into law it applies to the whole country. A Private Member's Bill is a Public Bill introduced, not by the Government, but by a member of the House holding no government office. If passed as an Act of Parliament it would have the same effect as a Public Bill so passed. A Private Bill is one dealing exclusively with the affairs of a Corporation, Municipal or Trading, or some other body or particular person. It is for the purpose of enabling the promoters of the Bill to pursue some particular purpose

or to undertake some work, e.g., the construction of a reservoir or railway, or to prospect for oil. Some of these Bills are highly technical in character and in order that they may be fully investigated, after the second reading, they are referred to a *Standing Committee* consisting of a number of members of the House including some who have a specialist knowledge of the subject-matter of the Bill before them. Standing Committees sit in the mornings in the committee rooms upstairs. Press reporters are admitted to their proceedings, but no record is taken by shorthand writers for the Parliamentary Debates—Hansard. The divisions (voting) of these committees are usually without reference to party.

iii.—Select Committes

Select Committees, consisting of a number of members of the House are appointed to investigate particular matters at the request of the House, and render a report of their findings to it, e.g., the Select Committee on National Expenditure. Select Committees are also appointed to consider in detail Private Bills after their second reading in the House. Very often a Private Bill promoted by a public or private corporation or body clashes with other interests. The objectors have a right to be heard, and will be heard if, after the first reading they have lodged a petition against the Bill in the Private Bill Office praying to be heard by themselves, their counsel or their agents. The Select Committee in this case is partly judicial and partly legislative in character. First the Committee, consisting of three members of the House, sits in its judicial capacity taking evidence on oath from the promoters and the opponents of the Bill. If the Committee finds against the Bill it reports to the House "that the preamble has not been proved" and the Bill is thrown out. If they declare that the preamble has been proved they (the Committee) proceed in their legislative capacity to examine the Bill clause by clause, approving, amending, or rejecting as they think fit. If the Bill successfully passes through the Committee it is reported to the House and formally read a third time, and then passed to the

House of Lords. These Committees, as in the case of the Standing Committees, hold their meetings in the committee rooms upstairs in the mornings.

The members of both the Standing and Select Committees are nominated by the Committee of Selection, a small body of the oldest and most experienced of the members of the House specially appointed for the purpose.

The officially recognised report of the proceedings of Parliament is the *Parliamentary Debates*—popularly known as Hansard after T. C. Hansard who in 1803 began compiling reports of the debates and proceedings of the two Houses of Parliament. His work forms a continuation of the *Parliamentary History,* compiled mainly by William Cobbett, which contains all that can be collected of the doings of the legislature from 1066 to 1803. Copies of Hansard may be obtained from the Stationery Office, Kingsway, London, or ordered through a bookseller. Hansard may also be consulted in Public Libraries.

Perhaps the most authoritative work on Parliament is Erskine May's *Treatise on the Law, Privileges, Proceedings and Usage of Parliament.* It was first published in 1844 when Erskine May was aged 29. Several editions have been published since, the last only recently.

There is need for a final word concerning membership of the House. A member of the House of Commons must resign his seat and seek re-election on accepting office—the only post exempt from the rule is the Secretaryship of the Treasury—otherwise a duly elected member cannot resign. So if a member has reason for wishing to vacate his seat he must apply for some office of profit under the Crown and give up the seat under the Act of Settlement, 1701. The usual practice is to apply for the Stewardship of the Chiltern Hundreds, or of the Manor of Poynings, or Northstead or the Escheatorship of Munster, whereupon the seat is declared vacant under the Place Act, 1742, and a new writ is issued by the Speaker. Of course the departing member immediately afterwards resigns his Stewardship, indeed he is expected to do so.

iv.—Historical Review

(a) *Origin?*

Now a brief historical note. It is impossible to fix an exact moment in time for the origin of the House of Commons as a representative assembly; it is the fruit of an idea rooted in remote antiquity. In the Anglo-Saxon polity perhaps the most complete and only part of the machinery of government that could be considered representative in any sense of the word was that which existed locally—the courts of the hundred, and of the shire. J. R. Green suggests, however, that if in fact we regard the Shire Courts as lineally the descendants of our earliest English Parliaments we may claim the principle of parliamentary representation as among the oldest of our institutions. The Witena-gemot was, certainly in its latter days, a council of royal officers and magnates of the realm. It played an important part in the history of the House of Lords, but not in that of the House of Commons. The fruit which had been so long forming began to develop comparatively rapidly after the Barons' Revolt which compelled King John in 1215 to agree to the terms of Magna Carta. By it a supreme civil court was established and towards the close of his reign the knights of the shire were admitted to it. The next notable change came only forty-three years later in the following reign, when, after repeated confirmation of the Charter, Henry III., in 1258, accepted the Provisions of Oxford. They provided, *inter alia,* "the twenty-four have ordained that three parliaments be held a year . . . To these three parliaments shall come the king's elected counsellors, even if they be not summoned, to see the state of the realm and deal with the common needs of the realm and the king likewise . . . So it is to be remembered that *the commonalty elect twelve good men, who shall come to the parliaments* and at other times as need shall arise, when the king and his council shall command them to treat of king and kingdom. And the commonalty shall hold as established what these twelve men do . . ." The credit, however, for shaping the future House of Commons, as such, must go to Edward I.

Indeed, he has a formidable rival in Simon de Montfort but it has been pointed out that the Parliament of 1265 though perfect in its elements was really a packed assembly; only the supporters of the government being summoned to it. Edward I, in 1295, summoned two burgesses from every city, borough and leading town within his realm to sit with the knights, barons and nobles of the Great Council; financial embarrassment was the reason; the burgess class had money. The Great Council of Barons had become the Parliament of the Realm. There was not any question at the time of the towns claiming *representative privileges;* the important thing is that in 1295 the burgesses and knights of the shire had gained a secure foothold in Parliament, though their reluctance to attend—chiefly due to the expense and the trouble involved in the journey—does not indicate that they fully appreciated the importance of the foothold. Neither did the king. This too must be well remarked: the division of Parliament into a House of Lords and a House of Commins formed no part of the original plan of Edward I. Could he have foreseen the result and the danger to the authority of the monarchy that lay in the growth of a strong parliament he would have tried to prevent it. In the earlier parliaments, it is true, each of the four orders, clergy, barons, knights and burgesses, met, deliberated, and made their grants apart from each other as separate Estates, but not as separate Houses; so far they had met as one assembly—the Great Council. By 1377, in the reign of Edward III the division of parliament into two houses was completed. The Commons elected Sir Wm. Hungerford their first Speaker and assembled in the Chapter House of Westminster Abbey.

(b) *National Liberties*

From the time of Edward I to the Wars of the Roses over a period of 160 years the contest between the two Houses and the Crown firmly established the great securities of national liberty: the rights of freedom from arbitrary legislation, arbitrary imprisonment, arbitrary taxation, and secured the responsibility of even the highest servants of the Crown to

Parliament and the law. But with the victory of Towton (1461) the progress of constitutional freedom was halted: the despotism of the New Monarchy was ascendant. Neary two hundred years elapsed before the House of Commons seriously challenged it. There followed a period of somnolence under the military dictatorship of Cromwell and then a fluctuating but perhaps, on the whole, steadily progressive career till the authority of Parliament was finally confirmed on the accession of William III. From the Revolution of 1688 the House of Commons begins to assume more and more its modern aspect; though none at the time seems to have realised the import of the changes. The era of party government was opening, indeed, some assert it had begun; that the political parties of modern English history emerged full grown, standing on their fundamental principles, from the reign of Charles II. But even if we accept that we must notice that they lacked the rigid organisation they have since developed. The Cabinet system too was developing. It was brought to fruition by Robert Walpole who gave it a definite relationship to the House of Commons. Since that time the constitution of the House has been modified by the Septennial Bill of 1716 and the Reform Bills of 1832, 1867, 1884 and 1885. The Reform Bill, 1832, is perhaps the most notable of the lot for it marked the beginning of the swing of the pendulum towards modern democratic representative government, the heydey of which must be placed somewhere between that date and the early days of the present century. To-day, in face of the restrained legislative capacity of the House of Lords by the Parliament Act of 1911, and of highly organised political parties, we see the transfer of the sovereign authority of the House of Commons to the Cabinet Executive taking place with an ever increasing rapidity. That this is not a figment of imagination or a mistaken view of recent tendencies is substantiated by eminent opinion. If carried to its logical conclusion the Cabinet will become the absolute master of Parliament, and the theory on which the Cabinet system of government is founded will no longer correspond to the facts. The theory is that members of the House who

provide money in support of their advice but for the fact that they clearly agreed to bow to the decision of the King and the Council. But this modest attitude did not persist for long.

The sovereign authority of the Commons has been built up and maintained by insistence on four cardinal parliamentary rights: (1) The right to control all taxation; (2) The right to legislate; (3) The right to impeach ministers; and (4) Privilege of Parliament. As to the first of these the Commons very early came to realise the power of the weapon they possessed in the control of taxation. The campaigning of Edward III led to very frequent demands for money. In 1339 the Commons went so far, after complaining of grievances, as to postpone a grant to the next parliament and in 1340 they drew up a list of reforms which they attached as conditions to the grant; one of these conditions being that no charge or aid should henceforth be made but by the common assent of the prelates, earls, barons *and commons* assembled in parliament, to which Edward gave his consent. The financial dependence of the king was established. The first, and perhaps the most important, advantage to the Commons was gained for, as we observed elsewhere, whoever controls the coffers controls the country. Not even the rule of the Tudors nor of the two first Stuarts can be cited in diminution of the value of this weapon in the armoury of the Commons because the first packed the House and the latter attempted to rule without it, raising their revenue by extra-legal means. The next step in this matter of financial control was a very short one. In 1340 a parliamentary committee was appointed to examine the accounts of the collectors of the last grant; in 1341 it was enacted that commissioners should be appointed for the same purpose; in 1334 (18 Ed. 3, Stat. 2, c. 1) the Commons made a positive demand that the money they voted should be spent for the purpose for which it was asked; they granted money for a specific purpose—to defend the realm against Scotland. Such was the beginning of parliamentary appropriations, of appropriating national revenue to the expenses of government in detail. So the Commons assumed authority to say not only how much

money should be spent but also how it should be spent.

The second parliamentary right, the right to legislate, was also the subject of contest with the Crown in the fourteenth century, and if not entirely conceded it was sufficiently recognised. Up to this time parliament could not initiate legislation except by way of petition, and the petitions, if granted, were not embodied by the King's Council in "Ordinances" until the end of the parliamentary session. The difficulty was to make certain that the Ordinance was in actual accordance with the petition on which it was based. The fact is if the king did not approve a petition it was amended—tampered with, says one historian—to meet the king's wishes before being formally entered on the statute roll. In 1340 the Commons itself appointed a committee to convert its petitions into statutes, and in 1348 it insisted that the answer given in parliament should not afterwards be altered. It was agreed that, on the assent of the Crown being given to a petition, it should at once be converted into a "Statute" and derive the force of law from its entry on the rolls of parliament. So the right was recognised but not entirely gained because throughout subsequent history the king and council have repeatedly made use of the "Order in Council" and the "Proclamation" as instruments of rule. In 1414 again a definite pledge was given by Henry V that nothing should be added to petitions beyond what was included in them, but the king reserved to himself the right to reject a petition. Under Henry VI "Bills" were substituted for petitions. The Bill was drawn exactly in the form in which the Statute was to be enacted so the opportunity to make changes in the drafting of the statute was removed. The Commons thus placed themselves on an equality with the king in the initiation of legislation, at least in essentials if not in absolute fact.

(d) *Impeachment*

Soon after the middle of the fourteenth century there was devised, doubtless by some mediaeval legal mind, a process based on the doctrine of ministerial responsibility, particularly as that doctrine was understood at the time. The process of

impeachment not only placed in the hands of the Commons a means of controlling government policy but also a means of limiting the power of the monarch by exercising control over his ministers. The process of impeachment was a criminal trial instituted by the House of Commons laying a charge of malversation or treason against a minister in Articles of Impeachment. The House then, as prosecutors, supported their charge before the House of Lords, who, in their supreme judicial capacity, tried the case and adjudicated upon it having heard the answers of the accused. To conduct the proceedings on their behalf the Commons appointed managers. It was first used in 1376 against ministers of Edward III and again ten years later against the Earl of Suffolk, a minister of Richard II. On the whole it was probably the best result of mediaeval experimenting to find a constitutional means of holding the king to real responsibility without incurring undue risk of civil war or revolution. In the next century, that is, towards the middle of the fifteenth, impeachment fell into abeyance and the Bill of Attainder took its place as a sharper and quicker process. Theoretically it served the same purpose as impeachment; but as a practice it was open to grave abuse, and in fact it always was abused. The process was carried through by the introduction in the House of Commons of a Bill declaring that a certain person was guilty of a certain crime: treason or felony. The Bill also specified the punishment. The House was thus prosecutor and judge. When the Bill of Attainder was passed by the House and received the royal assent it became statute law as any other Bill and the person affected was accordingly by law found guilty and by law punished. The consequences often were the forfeiture of land and goods and sometimes corruption of blood, i.e., the inheritance of certain disabilities by descendants. Of course the extreme penalty was death. So far from the Bill of Attainder in reality assisting the House of Commons to control the king it was, until the seventeenth century often a sign that the king controlled the Commons. In theory impeachment still forms a part of the constitution here as it does in the United States of America, where attain-

der is forbidden by the constitution—a reflection on their relative merits.

(e) *Development of Constitutional Government*

We have now to notice the establishing of the Privileges of Parliament; the ancient rights and undoubted privileges, namely, freedom of speech in debate, freedom of members from arrest, and free access to the monarch at all times whenever occasion may require, and that the most favourable construction may be put upon all their proceedings—as they are claimed in the formula used by the Speaker at the bar of the House of Lords. From 1399 to 1460 was a period of comparatively quiet development of constitutional government. The supremacy of Parliament was recognised and formed a solid foundation of constitutional right which was not to be destroyed by the reaction of the next century. So during this period we find that Parliament was mainly concerned to strengthen its position by giving some attention to detail. Apart from insisting upon its right to freedom in debate, and the freedom of its members from arrest, it proceeded to assert its right to determine the qualifications of members, to discipline and punish members and disrepectful outsiders, to regulate the right of suffrage in the counties, and also to improve the process of legislation. Looking at each of these privileges separately we discover that freedom from arrest during a session and in going to and from one is of very ancient origin dating from the days of the Saxon assembly. It was formally recognised in 1403 by Henry IV and further regulated and extended by statute in the reign of Henry VI. As to the qualifications for membership of the House it was already recognised that county members were to be "knights of the shire" but the representation of the towns and boroughs was not so determined until 1413 when it was enacted that members should be resident burgesses in the localities they represented. The Act was re-enacted in 1430 and 1445. The purpose doubtless was to prevent the sheriffs, as returning officers, "packing" the House with their own nominees, or the nominees of the great landowners

around. Had these Acts been duly observed the management of elections as practised in Tudor and subsequent times would hardly have been possible. Hallam quotes several instances of interference in elections. One, for example, relates to a Sir Robert Salter, who, in the time of Henry VIII, wrote "to some one, whose name does not appear, to inform him that the Duke of Norfolk had spoken to the king, who was well content he should be a burgess of Oxford; and that he should 'order himself in the said *room* according to such instructions as the said Duke of Norfolk should give him from the king'; if he is not elected at Oxford the writer will recommend him to some of 'my lord's towns of his bishopric of Winchester'." It is interesting to compare this "arrangement" with the party "safe-seat" system of modern times and to notice that these and similar instances at elections in his own time did not prevent this otherwise impartial lawyer, Hallam, from favourably commenting on the constitutional aspect of a bill presented in the session of 1571 to render valid elections of non-resident burgesses. It does not appear that it was proceeded with, and the Acts of 1413, 1430 and 1445 remained on the Statute Book until repealed in the reign of George III.

One other thing the Commons tried to insist on in the fifteenth century with regard to members qualifications. It was that they should be above the rank of the common freeman; in 1445 an Act was passed requiring those elected to be gentlemen born! In this period also the Commons determined the right of voting in the election of county members. In 1430 an Act was passed and added to in 1432 confining the right to the famous forty shilling freeholders—the elector must have "free land or tenement to the value of forty shillings by the year at least above all charges." These Acts remained in force for four hundred years until the Reform Bill of 1832.

(f) *The Dignity of the House*

The dignity of the House and regard for its rules and orders are and have been from its earliest history jealously

guarded by the House itself as a High Court with its power of summary punishment. Its will is made known through the Speaker, whose position was aptly defined by Mr. Speaker Lenthall on a famous occasion when he said, "I have neither eyes to see nor tongue to speak in this House save as the House directs." The actual execution of its will is performed by the Serjeant-at-Arms who discharges his functions under the direction of the Speaker, and when occasion requires by the warrant of the Speaker. That warrant may be executed in any part of the country and if need be with the aid of the civil power. A "Stranger" brought to the bar of the House for an offence against the dignity or rules of the House, or against a member or officer of the House, would, if sentenced to imprisonment, be committed to a civil prison; a member if his offence could not be expiated by a reprimand, or suspension, would be committed to the custody of the Serjeant-at-Arms and lodged in the Clock Tower of the Palace of Westminster. The necessity for anything more than reprimand or suspension has not arisen in recent times; but the power and authority still exist.

The source from which Parliament ultimately derives its sovereign authority was for long a matter of serious contention; the controversy was brought to a head under the two first Stuarts. For the previous two hundred years the Commons had been rendered more or less subservient to the administration by the systematic packing of the House with place men, the nominees of the Crown or of the large landowners. But the Tudors had sufficient political sense to know how far they could carry their absolutism with safety; James I and Charles I had not, and so the latent, the smouldering determination that the Sovereign should be held to law was fanned into flame after the accession of the first James. The issue between absolutism and a monarchy limited by law was joined and opened a fresh epoch in English history. We have not the space here to trace in detail the course of the contest; it is a matter of history. But, because they are the basis of the modern conception of democratic representative government, we would draw attention to some forthright

declarations of Parliament.

After James I had forbidden the Commons to discuss matters of State policy on 18th December, 1621, they drew up a "Protestation" emphatically declaring: "That the liberties, franchises, privileges and jurisdictions of Parliament are the ancient and undoubted birthright and inheritance of the subjects of England; and that the arduous and urgent affairs concerning the King, State, and defence of the Realm, are proper subjects and matter of Council and debate in Parliament. And that in the handling and proceeding of those businesses every member of the House hath, and of right ought to have, freedom of speech to propound, treat, reason, and bring to conclusion the same." James sent for the Journals of the House and tore the Protestation out with his own hands; he dissolved Parliament a few days later. The Protestation of 1621 was not the first James received concerning free speech from Parliament; its worth lies in the claim that the authority of Parliament is a part of the "ancient and undoubted right and inheritance *of the subjects* of England." Charles I may be said to have spent the whole of his reign in an unsuccessful attempt to refute this claim only to face a charge, on 1st January, 1649, that ". . . being admitted King of England, and therein trusted with a limited power to govern by and according to the laws of the land, and not otherwise; and by his trust, oath and office, being obliged to use the power committed to him for the good and benefit of the people, and for the preservation of their rights and liberties; yet, nevertheless, out of a wicked design to erect and uphold in himself an unlimited and tyrannical power . . . and to overthrow the rights and liberties of the people; yea, to take away and make void the foundations thereof, and of all redress and remedy of misgovernment, which by the fundamental constitutions of this kingdom were reserved on the people's behalf, in the right and power of frequent and successive Parliaments, or national meetings in council: he . . . levied war against the present Parliament and the people therein represented." Three days later the House of Commons, admittedly not a strictly representative House, re-

solved, "That the people are, under God, the original of all just power; that the Commons of England in Parliament assembled, being chosen by, and representing the people, have the supreme power in this nation; and that whatsoever is enacted and declared for law by the Commons in Parliament assembled hath the force of a law . . ." Rather more than four months later on 19th May, 1694, the Commons passed an Act declaring "the people of England and of all dominions and territories thereunto belonging . . . shall from henceforth be governed as a Commonwealth and Free State by the supreme authority of this nation, the representatives of the people in Parliament, and by such as they shall appoint and constitute as officers and ministers under them for the good of the people."

It cannot be supposed that the declarations of the opponents of absolute monarchy were made without bias; the circumstances compelled them to justify their acts, and they did so by reviving a truth long hidden from the common folk, a truth High Church divines and constitutional lawyers tried to smother, a truth that must have been inconvenient to Cromwell and his anti-monarchists. It is a truth which in such times can only be whispered. Richard Hooker in his "Ecclesiastical Polity," written fifty-five years earlier and towards the close of Elizabeth's reign, stated it: "Laws they are not therefore which public approbation hath not made so. But approbation not only they give who personally declare their assent by voice, sign or act, but also when others do it in their names by right originally at the least derived from them. As in parliaments, councils and the like assemblies, although we be not personally ourselves present, . . ." Then, so that he may not incur the displeasure of Elizabeth, Hooker stretches this indirect assent to cover the edicts of an absolute monarch! On this question of the sovreignty of Parliament Professor Dicey in his "Law of the Constitution" has said, ". . . in a legal point of view parliament is neither the agent of the electors nor in any sense a trustee for its constituents. It is legally the sovereign power of the state." That is virtually the position taken by Hobbes: once

made corporate the people alienate their supreme power. But Dicey distinguishes between legal and practical sovereignty allowing that the latter resides in the electors. About that Professor Adams in his "Constitutional History of England" observes, "The true test of course is to discover in a final conflict of authority which of the two must yield to the other." Adding, "Of that there can be no doubt." So out of Civil War and a Military Dictatorship of eleven years emerged a truth which is the basis of all constitutional and democratic representative government, which was to be the rock to which the North American colonies just over a hundred years later anchored their Constitution; which for a time was to be accepted by all "Western" civilisation; a truth which is the foundation of the sovereign authority of Parliament of Westminster: —

"The People are, under God, the original of all just Power."

The House of Lords

The Upper House consists of peers of the realm who hold their seats either by virtue of hereditary right, or by creation by the Sovereign, or by official position or election as in the case of English bishops, and certain Scottish and Irish peers. Taken together the House of Lords and the House of Commons constitute the High Court of Parliament. The Upper House, generally regarded as lineally descended from the Witenagemot and the Council of Wise Men, is presided over by the Lord High Chancellor, who, unlike the Speaker in the House of Commons, takes part in debate on behalf of the government. He fills several offices at the same time: he is the head of the judicial hierarchy and sits as the presiding judge when the House is constituted a Court of Appeal, he is a member of the Cabinet, and head of a department with a varied administrative range of duties embracing County Courts, Commissions of the Peace and Ecclesiastical Patronage. He is therefore at once judge, legislator and politician. As a legislative body the Upper House may, and does, originate legislation, but since the passing of the Parlia-

ment Act, 1911, its function as a second chamber in the legislature has been restricted; it cannot now absolutely veto a Bill from the Commons and it can do nothing at all with a Bill accompanied by the Speaker's certificate certifying it a Money Bill. If the Lords do not pass a Money Bill unamended within a month it becomes law on the royal assent being signified, and in the case of any other Public Bill it becomes law without the consent of the Lords if it is passed by the Commons and sent to the Upper House in *three successive* sessions, providing there is an interval of two years between the second reading in the first session and the third reading in the last session. The effect of the Parliament Act, 1911, has been, in matters of finance, to remove all control over the Cabinet if it is supported by a loyal party majority in the Commons, save for the royal veto which has long been in desuetude. As to other Public Bills the House of Lords can do no more than create sufficient delay for the sense of the nation to be better determined.

The House of Lords is also the Supreme Court of Appeal. But this aspect of its functions will be dealt with when we discuss the Judiciary.

We have now completed our examination of the Machinery for Law-Making, we have looked into the schematic system of administrative organisation as applied to the Departments of State, we have scrutinised the Political Structure and we have outlined the Process of Law-Making—Legislation. This elaborate and complex machinery has been devised and set up by man, piece by piece over a long period of time, with the intention of increasing his happiness, promoting his convenience and ensuring his safety. Let us now look at what the machinery produces—THE LAW.

II.—THE LAWS OF ENGLAND

When men exchange their natural liberty for the enjoyment of each other's fellowship and communion, for the purposes of promoting their mutual convenience and providing for their common safety, they can no longer act with complete abandon or absolute freedom; to do so would be

destructive of the purposes for which they joined together: there would be neither happiness, nor convenience, nor safety in such society. It is necessary, therefore, to prescribe a code regulating relations between each and every member of the community; to make and observe a rule which commands what is right and prohibits what is wrong for such men will henceforth form a body politic governed by Civil or Municipal law, which is essentially "a rule of civil conduct prescribed by the supreme power in a State." Now the setting up of a supreme power in a body politic must lead sooner or later to the evolving, or the drawing up, of a *Constitution* determining the mode in which the State is organised and defining the fundamental principles according to which the State is governed. In Britain the Constitution has evolved in time; it remains unwritten. In France and the United States of America, as is the case in most other countries, the Constitution has been drawn up and written—several times over in the case of France.

The laws and the Constitution are the rocks upon which an organised and civilised society is built.

Two Kinds of Law

The laws of England, upon which an Englishman relies for the assertion of his rights, the redress of his wrongs and the regulation of his relations with the State are of two kinds: *lex non scripta* the unwritten or Common Law, and *lex scripta* written or Statute Law. *Leges non scriptae* are not to be understood as merely oral laws: for no unwritten law is recognised in this country. They now consist of the monuments and evidences of our legal customs and usages contained in reports of cases, records of courts and the treatises of those learned in the law, preserved and handed down from remote antiquity: this is *Common Law*. The *leges scriptae* are acts of parliament, the oldest extant being Magna Carta as confirmed in parliament in 9 Henry III, i.e., 1224, hence *Statute Law*. All citizens are amenable to the law in these two broad divisions, and some citizens by their special circumstances are subject additionally to particu-

lar law: the priest, for example, is not only amenable to the law of the land as a citizen but also to ecclesiastical law as a priest. The soldier, too, has to regard the law for the citizen as well as the law for the soldier, for he is subject also to military law. But here we must confine ourselves to a consideration of the law as it bears on the citizen in certain particular respects. The first thing to consider is what civil and political rights and liberties are granted and guaranteed the citizen in consideration of his sacrificing his natural liberty; and the next matter to examine is what duties and obligations are required from and imposed upon the citizen in consideration of his enjoyment within the body politic of personal security: the "uninterrupted enjoyment of life, limb, health and reputation," and of personal liberty: "an unlimited power of locomotion." Now first things first.

The Citizen and the Law

The earliest written and formal guarantee of the civil and political rights of the citizen confirmed by Parliament is contained in Magna Carta as confirmed under Henry III in 1224. ". . . We have also granted to all freemen of our kingdom, for us and for our heirs for ever, all the underwritten liberties, to be had and held by them and their heirs for ever. . . . No constable or other bailiff of ours, or any other person, shall take up the horses or carts of any freeman for transport duty against the will of the said freeman. . . . No freeman shall be arrested, or detained in prison, or deprived of his freehold or outlawed, or banished, or in any way molested: we will not go against any man nor send against him, save by the legal judgment of his peers or by the law of the land . . . To no man will we sell or deny, or delay, right or justice . . . All merchants shall have safe and secure exit from England, and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, . . . If any one has been dispossessed or removed by us, without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if

any dispute arise over this then let it be decided by the five and twenty barons . . ." The forfeiture on conviction of felony was never to include the tenement of the freeman, the wares of the merchant or the wagon of the countryman; none was to be deprived of the means of livelihood, not even the worst of men. Such then was the guarantee of "uninterrupted enjoyment of life, limb, health and reputation" and of "unlimited power of locomotion" given by John and confirmed by his son. In 1297 Edward I granted a baronial petition *De Tallagio non Concedendo* the first clause of which provides: "No tallage or aid shall henceforth be imposed or levied in our realm by us or our heirs without the goodwill and common consent of the archbishops, bishops, and other prelates, earls, barons, knights, burgesses and other free men in our realm." There follows a guarantee against seizure on behalf of the king of corn, wool, hides "or any other possessions of any one without the consent of the owner." Another clause, perhaps the most important of all, reads: "We will also and have granted for us and our heirs that all clerks and laity of our realm shall have all their laws, liberties, and free customs as freely and fully as they have been wont to have them at the time of their fullest enjoyment. And if we or our heirs shall have published any ordinances or introduced any customs contrary to these liberties or contrary to any article contained in the present charter we will and have granted that such customs and ordinances be held null and void now and for ever. . . ." The petition, as such, had no binding force at the time, but in later disputes it acquired the force of law; in 1628 it was expressly cited as a Statute in the Petition of Right. So much was recognised and granted as the right of a free man in the thirteenth century: his person was to be free from unlawful arrest, his goods from unlawful distraint or levy; he was not to be dispossessed of freehold, franchise or right; and justice according to the law of the land and the judgment of his peers was his due. The bulwarks of English liberty were constructed at this time; but that is not to say they have not since been overstepped. Indeed from time to time throughout

our history it has been necessary to restate and reassert these rights explicitly, not because they have been, or can be, denied but because compliance with them has been evaded. Such a reassertion is the Petition of Right of 1628 wherein are recalled the statutory enactments of three hundred years before. So too, in statutory form, is the Habeas Corpus Act of 1679 (31 Car. II). It adds nothing that was not already there to English liberties; the writ of habeas corpus was issued of right, and could not be refused by the court. But, as Hallam appositely remarks in his *Constitutional History*, "It was not to bestow an immunity from arbitrary imprisonment which is abundantly provided in Magna Carta . . . that the statute of Charles II was enacted; but to cut off the abuses, by which the government's lust of power, and the servile subtlety of Crown lawyers, had impaired so fundamental a privilege." The Bill of Rights of 1689 is little more than a reassertion of the rights already established in the thirteenth century. On the whole it does not appear to add to, or subtract from, the legal power of the Crown or the limits of popular and parliamentary privilege save in one respect—and that admittedly of the greatest importance—it asserts the illegality of a standing army in time of peace unless with the consent of parliament. The high importance of all these Petitions, Declarations and Acts is not that they extend but that they confirm and well-establish the ancient and undoubted rights and liberties of the English people; they repair the damage done to the bulwarks of English liberty by governmental lust of power. We rely on them to-day. So much, then, has been gained by the Englishman in exchange for his natural liberty. We must now enquire what duties are required from him and what obligations are imposed upon him in consideration of the personal security he enjoys within the body politic.

(a) *The First Duty of the Citizen*

The first duty of the citizen is to observe the law as it is; though that does not mean that every proper endeavour and means may not be exercised to modify or abolish bad law or

oppressive legislation. But, generally, the law is an expression of the will of the community, all citizens having the right to concur, either personally or by their representatives, in its formation. So it is that citizens are presumed to concur and there is laid upon them an obligation to observe the law in their private and public lives; to conduct themselves and their affairs with due regard to law, avoiding alike the commission of acts prohibited by law and the omission of acts it prescribes. It follows that the citizen is also under an obligation to keep and preserve the peace, avoiding commotion, tumult and riot; assisting, when called upon by the civil power, in the suppression of these acts and of all crime. Indeed every citizen has exactly the same rights as a officer of the peace in this respect, but, in certain circumstances he does not enjoy the protection afforded the officer of the peace against the consequences of his action in like case. It is consequent upon this obligation to observe the law and preserve the peace (and the right of every man to be tried by his equals) that the duly qualified citizen must accept the further obligation of jury service to find on matters of fact that justice may be done between the accused and the community; or, in civil causes between citizen and citizen: defendant and plaintiff.

(b) *The Second Duty of the Citizen*

The second duty of every able-bodied citizen is to take up arms in defence of the realm when called upon. The performance of this duty in this country was formerly a condition of land tenure. When the Norman military organisation of feudalism was superimposed on the English form of feudalism every estate, great or small, was held from the crown on condition of military service at the royal call, sub-tenants being bound by the same condition of service to their lord. "Here, my lord, I become liege man of yours for life and limb and earthly regard, and I will keep faith and loyalty to you for life and death, God help me." The kiss of the lord invested the feudal dependant with his "fief," his land. By Act of Parliament in 1660, 12 Car. II, military tenures

were abolished, but long before that the military character of the fiefs had been effaced by commutative payments of money—exchanged by Charles II at the Treaty of Newport for a fixed revenue of £100,000. The gradual extinction of the military character of fiefs led to the raising of mercenary troops: men who voluntarily undertook military service for money and plunder. So the personal obligation of able-bodied citizens to military service tended to become less apparent till, in the early part of the nineteenth century, there was imposed a modified conscription in the form of the press-gang for the navy and the ballot for the militia. By an Act of 1860 conscription was theoretically maintained for the militia, but the law fell into abeyance. Not until 1916 was conscription reimposed on all males between 18 and 50; and in 1940 the idea of conscripting women for service with the armed forces (though not for combatant line service, at least theoretically—that may come with the next war) was first applied in this country. So the obligation of military service is again established by law.

(c) *The Third Duty of the Citizen*

Thirdly, the citizen is under obligation to contribute towards the public expense incurred by the State in making provision for the preservation of internal peace and order, in providing for the defence of the realm against external aggression, and for the contingent administrative costs. A member of the body politic is presumed also, even from the earliest times, to assume some liability towards the indigent of the community who, because of incapacity or misfortune, are unable to make sufficient provision for themselves and their families. The rightness and justice of requiring the citizen to assume any greater liability than this towards the indigent and their immediate dependents is, as we indicated earlier (p. 32), a debatable matter.

(d) *The Fourth Duty of the Citizen*

Finally, because the duly qualified citizen is enfranchised as of right there devolves upon him a reciprocal obligation to

take part in the affairs of the State by the use of his vote, or by assuming such public office as may be offered him by his fellow citizens. Local office, indeed, cannot be refused in certain instances except under penalty, though sanctions are not applied against reluctant nominees for parliament.

Such, in broad outline, are the obligations and duties assumed by the citizen in consideration of the personal security he enjoys within the body politic. In detail they are defined and imposed by the law of the land. In its application to the conduct of the citizen as such the law, according to the wrongs it is to remedy, has two principal branches: civil and criminal. Civil action is an instrument whereby satisfaction is obtainable by aggrieved parties for civil injuries; by which matters in dispute between subject and subject may be determined and settled, for example, alleged breach of contract, or alleged libel. In such cases the law is content to furnish the individual with the means to seek redress, and the subject of the action is termed a *private* wrong, or a *tort*. Crime on the other hand is a *public* wrong, a wrong which the law contemplates as being worked against the community at large as distinguished from the individual. It comprehends all acts amounting to treason, felony (e.g., murder and robbery) and misdemeanor. Inevitably every crime involves a private wrong, for murder involves injury to the life of an individual and robbery is an injury to rivate property. But the law is chiefly concerned to preserve ıe structure of society and to prevent public mischief, so the rivate wrong is absorbed in the public wrong. Hence in .riminal cases the law affords the Crown a criminal prosecution on behalf of the community for the purpose of punishing the wrong-doer and deterring others who may be like-minded.

The Law of Equity

There is yet another branch of the law, the Law of Equity. It is so called by way of distinction from the original and proper Common Law (p. 76); and it is a species of unwritten law. The purpose of Equity is to afford relief not

to be had by the Common Law. Whenever Common Law does not afford a remedy that is plain, adequate and complete, Equity interposes to give relief. This judicial opinion is now confirmed by the Judicature Act, 1925, section 44, which lays down that where there is any variance or conflict between the rules of Common Law and of Equity, the rules of Equity shall prevail. Successive interpositions on the same grounds by Equity become the foundation of a general principle which, in course of time, will be converted into a rule. So much of what is now considered strict law was formerly considered as Equity. Equity intervenes in a wide variety of causes, for example, in matters of account—debts, legacies, trusts, tithes, partnership dealings; in fraud; and in the true construction of securities for money lent.

We have already mentioned that citizens in special circumstances may be subject to particular law as distinct from, and in addition to, the Common and Statute Law. A detailed discussion of particular law is outside the purpose of this book: we are simply concerned to notice its existence. In all cases the purpose of particular law is to provide, primarily, a code to regulate the affairs of, and maintain discipline within, the organisation to which it relates; though at different times or in exceptional circumstances such particular law has been, and may be, applied to the ordinary citizen. For instance, in time of exceptional danger to the State the ordinary citizen may be made subject to military law. The Church of Rome regarded, indeed regards, herself as the one and only true Church, the equal of the secular State; a claim not admitted in Protestant countries. To further the discipline and policy of the Church it formulated a code of laws, and until the Reformation, in certain respects, the Canon Law of the Church was made applicable to the laity as well as the clergy in an attempt to establish the equality or even the supremacy of the ecclesiastical authority over the temporal. Canon Law is a collection of ecclesiastical constitutions for the regulation of the Church of Rome, and, as such, was in force in this country until a statute of 25 Henry VIII confined the canons in force to such as were not repug-

nant to the law of the land and the King's prerogative. Now only so much of the English canons is in force as does not conflict with the Common or Statute Law to the control of which it is subject.

The authority for the organisation, control and discipline of the armed land forces and any civilian personnel attached to them is provided by Military Law as embodied in the Army Act, 1881, and the amendments made by subsequent annual acts. The Army Act contains a special proviso that "nothing in this Act affects any jurisdiction of any civil court to try a person subject to military law for any offence." In other words the civil power is supreme over the military power and all military personnel, military jurisdiction extends only to military offences except in such conditions that persons subject to military law committing civil offences cannot practicably be brought within the jurisdiction of a civil court, as for example, when on service in the field in the face of the enemy. Codes similar in design and purpose support authority in the Navy and the Air Force.

Domestic Life and the Law

The law begins where human society began: with the natural pairing of man and woman. Upon this event depends the founding of the family; and upon it rests the foundation of social life and society. It is not surprising, therefore, that the pairing of man and woman should have been made the occasion by the laws of Holy Writ and of man of solemn obligation and contract. In England the law of marriage is founded partly on Common and partly on Statute Law. Since the Statute of George II requiring the publication of banns and the solemnisation of the marriage, in the presence of witnesses, in one of the churches where they have been published there have been several others setting forth the conditions and formalities necessary to a valid contract of marriage. In passing we may note that parental consent is generally required before the child, being yet a minor, can make a contract of marriage; but a marriage contract made without the consent of parents or parent is not thereby illegal

or invalid. Except in recent times in Western civilisation, however, the marriage contract may fairly be said to have favoured the dominion of man. His wife had practically no recognition in the eye of the law. We emphasise that this statement is true only of woman in the role of wife, for before the close of the thirteenth century the widow, the daughter and the single woman might engage in agriculture, in industry and trade on equal terms with men. There were women members of the gilds, some of them among the richest members of their gilds. They were members of the Trinity House Gild—the gild of the sea-merchants and master mariners. There were women surgeons, smiths and plumbers, and they played a part later in the woollen industry. But in this country it took over eighteen hundred years of Christian civilisation for the wife to receive recognition as a separate person by the Married Women's Property Act, 1882. Before that date a married woman could not even bring an action in the Courts, except one against her husband for divorce. Now not only is woman the legal equal of man but also his political equal by the Equal Franchise Act, 1928. An equality of partnership has been established.

In normal family life not many of us are very conscious of the influence and operation of the law. Our own consciences usually dictate what we may do and what we ought to do. But when the conscience is not adequate to control our course of conduct the law is ready to intervene. It lays upon the husband an obligation adequately to provide for his wife and family; it charges the father with the physical protection of his children, and holds him responsible for their care, well-being and upbringing. The whole series of Education Acts, 1870-1944, have been designed, indeed, to enforce a duty indicated by reason. But all obligation is not on one side. A principle of natural justice lays upon the children duties towards their parents; the duties of obedience, protection and maintenence. And when in sickness or in age the parents can no longer meet their own needs the law will enforce these duties of the children.

So much for the law and life within the family circle. As

the centre of the family circle the citizen is normally a householder and the bread-winner for the family; as such he is brought into contact with a wide range of other persons and obligations.

(a) *The Citizen as Householder*

In his capacity as householder the citizen must either rent from another or himself own the accommodation he occupies. In either case he is subject to civil law. Let us notice some instances. A prospective tenant may mutually agree with his future landlord the rent he will pay; the use to which the house may or may not be put, e.g., for business purposes; their respective responsibility for maintaining the building and fittings in repair; the term for which it is to be taken and so on. To be valid and binding such terms must be set down in the form of a Tenancy Agreement, on which the appropriate Stamp Duty must be paid to the Inland Revenue. Then the Agreement is enforceable in the Courts. The majority of tenancies, nowadays, is controlled by the Rent Restriction Acts, and in certain cases the rent of rooms is fixed by the local Rent Tribunals. On the other hand to become the owner of property one has to acquire a legal title to it; and that involves more than merely handing over the purchase money. There is only one safe way to go about this —go to a lawyer. He will investigate the vendor's title to the property, and make certain that he is entitled to sell it and that there is no lien on it. He will discover what restrictions, if any, there are upon its use, and if the property is the object of any special charge. There was an occasion when a farmer discovered that by purchasing his farm he had made himself responsible for the upkeep of the fabric of the chancel of the Parish Church! The lawyer, too, will see that the property is properly conveyed and if necessary registered with the Local Land Registry.

Even the furnishing of a home may be the subject of an agreement—a "hire-and-purchase agreement," unless one pays cash. In all these cases, because of the money and the risks involved, it is the safest and the cheapest in the long run before signing agreements, or receiving or parting with

title deeds to seek legal aid and advice. After all if such documents are valid in law they are binding and a judge can do little to mitigate any hardship that may be inflicted after a deed has been executed by the foolish.

The next thing to notice is that every occupier of premises is responsible for the payment of a share of the expenses incurred by the local government authority for the provision of such services as water, gas, electricity, sewage disposal, roads, police, education, housing and the like. These expenses are met by the Rates levied by the local Rating Authority. All land and buildings are assessed by the local Valuer for the Assessment Committee as having a certain value. The total expenses of the area are divided between the occupiers who pay so many shillings and pence in every pound of the assessed value. When an occupier thinks the value of his premises has been placed too high he has a right of appeal with a view to getting his share of the local government expenses reduced. This is all subject to Statutory regulation.

Then there is the problem of one's neighbours. So many things may happen they are too numerous to mention here: the noisy neighbours, the straying hens, the dog that bites, the overhanging tree, right of light, the noxious trade. These are all matters, which, if they cannot be settled between neighbours, have to be decided in Court by the application of either Common or Statute Law. There seems to be only one way to avoid the vexation of litigation: so use your house, your land and anything that is yours that you do no injury to your neighbour and cause him no annoyance.

(b) *The Citizen as a Man of Business*

The citizen as a man of business is the object of a vast amount of legislation designed to protect him, the investing public, his customers and his employees. The company director of to-day has his relations with the company and the public defined and determined in detail by the Companies Act, 1929, and by Case Law. It was not until 1844 that an Act was passed *enabling* a register of companies to be made and giving to all registered companies the right to sue and

be sued as corporate bodies. Prior to that date a company could only act as a corporate body if it obtained a grant of letters patent from the Crown. Something was certainly gained by this Act, but both the directors of, and any investing in, a company still remained liable to the extent of their fortune if the company should prove an unsuccessful venture. This liability was limited to the extent of the money invested in the concern by the Act of 1855. A series of Parliamentary enactments followed which have since been consolidated in the Companies Act, 1929. Or should a man wish to join with another, or others, in trade, business, profession or manufacture to carry on "a business in common with a view to profit" as the Act expresses it, otherwise than under the Companies Acts, Royal Charter or letters patent or Act of Parliament then a partnership must be formed. It may be formed formally by agreement drawn up in legal terms by a lawyer or by no agreement at all: just by "carrying on a business in common with a view to profit"—that is, by conduct. But in any case the relations between the partners and between them and the public are decided by the Partnership Act, 1890, the Limited Partnership Act, 1907, and other statutory enactments as well as Common Law.

The law proceeds to regulate the activities of all such persons with some minuteness. The manufacturer and the shopkeeper, for example, fall within the scope of the factory, workshop and shop legislation, designed to protect employees, which may be said to begin in 1802 with the Health and Morals of Apprentices Act of Sir Robert Peel. This legislation was developed by successive Acts of Parliament, the first of which to contain a germ of success was the Factory Act, 1833. As a whole this legislation aimed at setting a minimum standard for working conditions in mills and factories and a limit to the number of working hours, especially with reference to women, young persons and children. The need for such legislation cannot be denied when one realises that the greed for gain had so far obliterated humanitarian sentiment that men, women and children were wellnigh forced to labour in conditions that might well have

shocked alike the slaves of ancient Rome and the West Indian slave-owners. As Act follows Act so the detail of this branch of legislation increases regulating not only maximum hours, overtime and holidays, but also compelling the fencing of machinery, the provision of fire escapes; fixing standards of cleanliness, of space per worker, of ventilation and sanitation and so on. Now, too, the Public Health Acts apply in matters relating to health as do the Education Acts with regard to the employment of young persons. In fine the responsibility of the employer to the worker has been defined —at least, within limits—in something over thirty Acts down to the Factories Acts, 1937, and the Truck Act, 1940, if we omit those relating only to special trades.

Between business men themselves, as well as the public, the law intervenes to preserve just dealing in the exchange of goods and services and to decide the onus of each party in the buying and selling of merchandise, as in the Sale of Goods Acts and the Merchandise Marks Acts; while the Patents, Designs, and Trade Marks Acts afford protection to the originator of a new invention and the user of a duly registered mark distinguishing his goods from those of other makers. To discover one's precise rights and responsibilities involves a detailed study of each of the relevant Acts. That is the function of the lawyer. There is a similar weighty body of legislation applicable to the retail trader; there are also a number of Statutes, Statutory Orders and so on, all having the force of law, applying only to special trades, e.g., Dangerous Drugs Acts, Pharmacy Poisons Acts, Sale of Food (Weights and Measures) Act, Public Health (Regulations as to Food) Act, and the like. Many retail traders must also provide themselves with a licence before they can carry on their business, as for example, dairymen and publicans. This principle, by the Emergency Powers Act, 1939-40 has been extended to practically every conceivable form of trade.

Each of the professions has its own governing body to preserve professional standards and discipline, and some, in the case of the learned professions especially, act under authority of Parliamentary Statute, e.g., the Law Society and the Solici-

tors Acts, 1843-1941. But in relation to the public at large every member of a profession is also amenable to Common and Statute Law as well as to the code of the professional governing body.

We might go on enumerating Statutes, Orders, Rules and Regulations and Court decisions as they apply to merchants, agents, farmers, market gardeners, workmen and the rest. But we must content ourselves with this rather limited illustration of the number of points in a man's life at which the law touches him because the subject is a study in itself; it would be impossible to treat it with any completeness in the confines of our space. Much of this legislation has a very long history; much more has its origin in the years since the opening of the nineteenth century. And more and more this type of legislation tends to deal with detail rather than broad principle.

Law: An Instrument of Policy

Now let us briefly survey the law in aspects other than the purely personal. So far we have taken a limited view of it as the means for securing justice between men in their everyday lives and for ensuring peace and order in the land. But in the larger view the law is the policy of the rulers of the community made obligatory and binding. That is to say the policy of the rulers becomes law only after it has been subjected to such constitutional processes and put into such form that it can be supported by all the force derived from the penal and punitive machinery at the command of an organised State. From that point onwards the law may be viewed also as an instrument of policy because it is in the name of the law that penalties are exacted of those who defy or even unwittingly transgress the settled policy of the rulers. Such policy may be conceived as social when it relates to the conditions of corporate life in the community; as national when it is the expression of the will of the people with reference to their own security and their relations with other States; or it may be regarded as merely partisan or doctrinaire if it is designed only to secure the ends and purposes, or

if it is simply an expression of the theories of those wielding power. If we turn to history we shall find this extended view of the law illustrated. Out of enacted legislation and the application of the processes of law to make it effective there has developed a social policy as may be observed by an examination of the Poor Laws, the Factory and Workshop Acts, Trade Union Law (though it is largely protective) and the Education Acts. Together they form a complete policy.

Social Policy

The break up of the feudal system turned loose large numbers of men without a craft and despising industry: the dissolution of the monasteries and religious guilds caused a wild speculation in land: the importing of Mexican silver led to the inflation of prices, which bore hardly on the poor: the enclosure of large tracts of common land for sheep-farming deprived tenants of their pasture, and labourers of their employment. Together these factors led to the appearance of large numbers of unemployed persons in the first half of the sixteenth century. Their numbers at first were regarded as a public nuisance to be dealt with by the charity of their neighbours; but later they grew to be a public scandal. Attempts were made first to deal with the problem municipally. Corn was stored against scarcity, so that it could be released on the market in an effort to control prices, and some was definitely allocated to the poor; loans were made to replace loss by fire or flood; arrangements were made for the apprenticing of the children of the poor, and for the licensing of beggars. In London, in 1524, a search was made for able-bodied idlers who were whipped when found; and in 1547 the Common Council of London compulsorily levied a tax for the relief of the poor. Ten years later the palace of Bridewell was taken over by the City as a place where the sturdy vagabond could be set to work and poor children taught a craft. The trade guilds supplied the raw material and took back the finished goods, paying for the labour; the inmates paid for their board and lodging out of the wages they earned. The organisation of Bridewell, was, in fact,

much less like a prison than is the modern workhouse, and rather more intelligent. Yet these first steps in Poor Law administration show surprising vacillation betweeen savagery and sense. The Parliamentary Act of 1547 which made slavery the penalty for begging was repealed two years later when whipping was restored as the punishment. Both measures were repressive and punitive. In 1551 the collection of alms for poor relief by the mayor, or parson and churchwarden, "with persuasion" was ordered; and in 1563 the magistrates were ordered to assess recalcitrant donors. The period 1569-1597 appears to mark a changing attitude toward the problem. The culmination of savagery is reached in the Act of 1572 which made death the penalty for a third offence—extending even to the workman on strike for higher wages. More intelligently the 1576 Act ordered the erection in every county of Houses of Correction on the Bridewell model; and in 1589 there followed a housing Act limiting one family to one house, and forbidding the erection of new houses in London and Westminster altogether, and in the country with less than four acres of land: approximately the subsistence area for a family of four. But as no provision was made for re-housing the displaced slum dwellers and no one was compelled to build houses the Act did little to solve the problem. The greatest contribution to the solution of the problem was made by the Acts for the relief of the poor, 1597 and 1601, which provided that poor children were to be set to work or apprenticed; that raw material was to be made available for the able bodied to work on; that hospitals were to be built for the impotent; that funds were to be levied in each district, by distress if necessary; and all beggars were to be classed as rogues to be whipped and sent to work in the House of Correction in their native district. The burden of providing work was placed upon the district officials responsible for the administration of the Acts; in the case of the parish they were the Churchwardens and four overseers. The overseers came under the supervision of the Justices of the Peace; the administration of the whole Poor Law resting with the Privy Council. The legislation of 1597-1601

is an excellent example of the law being used as an instrument of social policy, and, on the whole, until the outbreak of the Civil War, it served its purpose well.

From about 1660 onwards throughout the eighteenth century and, indeed, the greater part of the nineteenth century the administration of the Poor Law considered as an instrument of social policy does nothing but reflect discredit on the nation, revealing, as it does, beneath the thin veneer of culture, gentility and respectability, brutality, harshness and lack of sympathetic understanding towards the unfortunate, and a material selfishness only to be matched in our own time. By an Act of 1723 every parish was empowered to build a workhouse for the purpose of accommodating the pauper and finding work for him. A plan was very generally adopted of letting the management of the place on contract; the contractor either being paid a lump sum or being allowed a sum per head in addition to the value of the labour of the inmates. In the first case the contractor limited the numbers using the place by making conditions as deterrent as possible, while in the second he made as much as possible out of the contract by overcrowding and overworking the inmates. In neither case was there any conspicuous consideration for the poor; the principal charm of the scheme was that the poor rate began to dwindle! Towards the close of the century there was in operation what was virtually legalised slavery of the out-of-work labourer; the overseers of the poor might lease him to a farmer at a price; he might be auctioned; or ratepayers might employ so many paupers instead of paying rates. There was also the gang system of letting out paupers under a foreman to the farmer, and the Speenham-land system of subsidized labour which went a long way towards pauperizing the whole rural population. In 1832 the Reformed Parliament appointed a Commission of Inquiry into the working of the Poor Law; its report was followed by the Poor Law Amendment Act, 1834. It encountered much opposition from vested interests of all kinds—the landlord who wanted his rent secured by the rates, the farmer who wanted cheap labour and even the labourer who saw in it a challenge to his claim of work or

maintenance! By this Act parishes were combined for Poor Law purposes into Unions of Parishes, and so they remained with central control vested in the Local Government Board from 1871 until 1919 when the Local Government Board was absorbed in the Ministry of Health. The Parish Unions were absorbed by the County and County Borough Councils when these bodies, under the Act of 1930, consolidating the Poor Law in England and Wales, assumed responsibility for the administration of the Poor Law under the name of "Public Assistance" through their Public Assistance Committees.

So by law enabling, by law compelling, a social policy of sorts has been evolved for the relief and care of the indigent poor. But how evident it is from such a record as this is that law administered without compassion in the breast, and charity in the heart and understanding in the mind is a harsh and clumsy instrument. It may be the admiration of the administrator but it is the scourge of the victim and the scorn of the upright; and no substitute for Christian kindliness, fair-dealing and helpfulness. The Factory Acts in many ways may be considered a continuation of the Poor Law; but there is this difference between them: whereas the policy of the Poor Law was directed to deter and repress the victims of circumstances the policy of the factory legislation has been directed at the circumstances and the creators or controllers of the circumstances and not against their helpless victims. For this reason the Poor Law which began under Elizabeth a positive social policy soon assumed, and largely retains, a negative character while the Factory Acts on the contrary have always preserved a positive aspect, even when least effective.

The Factory Acts

We have already referred to factory and workshop legislation as defining the responsibility of the manufacturer and trader towards the employee (p. 89). Here we are concerned with it from another point of view. Taken together, consolidated, the Factory and Workshop Acts have come to be more than a mere definition of responsibility, they have become an instrument of social policy for the betterment of the condi-

tions of labour of a very large section of the employed population.

The great difficulties faced by the reformers—apart from the fact that they probably did not conceive the reforms whole—is emphasised by the piecemeal character of the legislation. For them it was a matter of proceeding step by step, laboriously, surmounting obstacles one by one, contesting the way with aggressive men determined to make their fortune at no matter what cost to others; often these were men who had literally "been through the mill" themselves. The appalling conditions in the mills and factories so rapidly springing up about the opening of the nineteenth century were largely contributed to by the brutal and lax administration of the Poor Law, especially with respect to children and young persons. So the first efforts were directed particularly to their protection as in the "Health and Morals of Apprentices" Act brought forward by Sir Robert Peel in 1802. Another early in the field was Robert Owen (1771-1858) whose fundamental belief that the object of all human exertion is happiness is not unlike Hooker's "All men desire in this world a happy life." In 1819 his orginal draft, much diluted, formed the subject of an Act forbidding the employment of children under nine years old, and limiting to twelve hours a day (exclusive of meals) the employment of those under sixteen. Unfortunately its operation was confined to cotton mills, and inspection was entrusted to justices of the peace as before; they were often interested persons. Apart from men so well known as Peel, Owen and Lord Ashley (later Earl of Shaftesbury) there were others—the Reverends G. S. Bull and J. R. Stephens, and Richard Oastler and John Doherty—all striving towards the same goal. Act followed Act in 1819, 1825, 1831 and 1833. The Factory Act, 1833, was the first to contain an element of success, due chiefly to the fact that it provided for a paid factory inspectorate to see that the law was enforced. Even so it was difficult to carry out the Acts with regard to children in face of dishonest parents and unscrupulous employers until there was some reliable means of ascertaining a child's age. This difficulty was overcome by the

Registration of Births Act, 1837. Other Acts followed from time to time extending the protection of the law to women, and women and children in yet other industries; for example, the Mines and Collieries Act, 1842, excluded women and children altogether from employment in the mines. Notably Acts were passed in 1844, 1864, 1867 and 1874. The Factory and Workshop Act, 1878, consolidates with certain amendments, the seventeen preceding Acts commencing with "Addington's" Act, 42nd, Geo. III, and including the Factory Act, 1874. This Act was amended as to white-lead factories and bakehouses in 1883, and generally by the Factory and Workshops Acts, 1891 and 1895. By these Acts the powers of the factory inspectors were increased. Altogether up to the present time rather more than thirty Acts of Parliament comprise the body of legislation relating to Factory and Workshop, excepting those relating to special trades. The collective effect of these Acts may be summarised as: Limiting and regulating the hours of employment of children, young persons, apprentices, and women; Insisting on adequate meal times; Requiring indirectly proper provision for the education of all children and young persons; fixing minimum standards of ventilation, light and sanitation; requiring the fencing of machinery and provision of fire escapes; and appointing a factory and workship inspectorate (whose names and addresses must be displayed in factories) with the right of entry at all times in place of the justices. The safety of life and limb and care for the health of the adult male worker was not a matter of great concern, or so it seems, to the early reformers for little was attempted in this direction until the trades unions were well established, and they made it their special business. Now practically every industry in which there is risk to life and limb, or danger to health is covered by regulations setting out safety precautions, specifying the use of safety devices and protective clothing and so on, as well as fixing the hours of work; and by the Workmen's Compensation Act, 1925 (which superseded the Acts, 1897 and 1906) liability is placed on the employer subject to statutory provisions, to compensate his workmen for injuries

caused by accident arising out of, and in consequence of, their employment. The administration of this body of legislation lies with the Home Office through its various inspectorates (p. 19). So out of isolated individual effort there has developed a social policy for conditions of employment involving the co-operation of workers, employers and State authorities with the law as its principal formative instrument; and its success lies in the fact that it has not been directed against the victims but towards changing the conditions and circumstances under which the victims of a system laboured.

The Truck System

Although perhaps not strictly relevant to our subject, law as an instrument of policy, the matter is so intimately bound up with the conditions of employment of wage-earners, especially in the eighteenth century, that at this point we ought to notice the Truck System and the legislation to suppress it. Truck consisted in paying wages partly in goods instead of money. The employer would open a stores and either compel, or at least so arrange things that the workers had no option and had to frequent the master's stores for their provisions and necessities. It was an old system; and if honestly conducted would have been no more objectionable than any other system of credit. But it held out temptation too strong for men seeking a quick fortune to resist: the workmen were overcharged for inferior and often useless goods; and by the system of monthly payments men were also encouraged to anticipate their wages. Quite clearly nothing less than effective intervention by the law would protect the wage-earners. As long ago as 1464 an enactment, possibly the first, against payment by Truck was introduced. In 1637 the law was enforced against Sir Thomas Reynolds when he was sent to the Fleet for attempting to make his workmen accept goods instead of wages. He was kept there until he compensated his men to the extent of twice their losses! An Act was also passed in 1701 forbidding payment of wages in cloth, commodities or victuals instead of in coin of the realm; but the practice continued and, indeed, grew throughout the eighteenth century.

Another Act against Truck in mines and factories was passed in 1831, a Commission on Truck sat in 1871-72, and in 1887 the provisions of the Act of 1831 were extended to protect all workmen except those engaged in agriculture and domestic service. The system had its greatest hold in South Staffordshire, the "Black Country," and South Wales. The difficulty was to make the law effective in operation, and little was done until the Trade Unions took action to ensure that wages were paid in cash.

Trade Unions and the Law

A review of the law as it stood reveals it as an instrument of repression and coercion when we consider its application to the working population; and only a long struggle lasting many centuries between peasants and labourers on the one side and the "powers that be" on the other has changed the law to an instrument protecting the workmen's interests. In the Statutes of Labourers of 1351, 1353, 1360, 1368, 1388, we find repeated attempts, each with an increased sanction against the labourer, to bind him to the land and his lord under conditions obtaining before the Black Death. Each successive enactment attested to the failure of its predecessors; to inability to enforce harsh and unjust law. At the time of the agrarian discontent in the middle of the sixteenth century, when twenty thousand men gathered round the Reformation Oak on Mousehold Heath, meetings of peasants were by law forbidden. Indeed, in 1548, the year prior to Ket's Rebellion, Act was passed reaffirming that combination was illegal, it was so already. Again in the early eighteenth century e same kind of law was re-enacted. In 1718 proclamation was made against "unlawful clubs" which, on examination, prove to be trade unions, and in 1727 combination among the wool workers was declared illegal; although curiously enough the employers were permitted to combine to secure their interests; at least nothing was done to hinder them.

Trade Unionism, as it is now understood, appeared about 1700, though the felt-makers had successfully combined about a century earlier (1604); and throughout the eighteenth cen-

tury the wool workers of the West of England were forming combinations. From 1757 Parliament refused to interfere in industry in the worker's interests, obviously owing to the fact that they were completely unrepresented. The Courts of Law, too, showed a marked unwillingness to enforce the law as it existed in relation to wage-fixing; and in 1813 Parliament repealed the whole of this section of the law. The development of trade unionism was seriously hampered by the Conspiracy Laws which were reinforced by the Act of 1799 and a modifying Act, 1800, not only rendering strikes illegal but also making a joint request for an increase in wages by workmen an offence punishable by imprisonment. The final repeal of the laws against combination by workmen in 1824 was chiefly due to the efforts of three men—Francis Place, a master tailor of Charing Cross, McCullock, editor of *The Scotsman*, and Joseph Hume, a Radical member of Parliament. In effect the repeal did little more than make the existence of unions not illegal; it did nothing to protect their funds even against dishonesty in their own officials. And as late as 1867 a Court decision held unions to be illegal under Common Law as being contrary to public policy. However following the repeal there was a period of considerable trade union activity reaching a climax in the years 1832-34. In the latter year Robert Owen founded "The Grand National Consolidated Trades Union"—a union of unions; and in the same year the hostility of the middle and employing classes was vented on the Tolpuddle martyrs in a sentence of seven years transportation. It was alleged that these Dorsetshire labourers had taken part in the administration of a secret oath; in fact they had taken part in the administration of a trade union oath quite openly and with rather stupid ceremony which could not with any show of reason and impartiality render them liable to conviction for conspiracy. That monstrous twisting of the law was partially remedied by the remission of the sentences after two years' agitation by the Radical Party. But only one man returned to his native village. Momentarily union activity was checked, but from 1840 it again showed signs of revival under more

cautious and capable leadership. The Miners' Association dates from 1841 and the Amalgamated Society of Engineers from 1851. In 1867-69 a Royal Commission sat to inquire into alleged outrages committed under the auspices of certain unions in Sheffield and Manchester, the outcome of which was the passing of the Trade Union Act, 1871, and the Employers' and Workmans' Act, 1876. Together these Acts legalise trade unions, secure protection for their funds, and recognise "picketing" without violence, and above all, under the last mentioned Act both sides became parties to a civil contract so that the workman could no longer be imprisoned for a breach of it. In this respect at least he now stood on the same ground as the employer for the first time.

Out of this protracted struggle to change the law from an instrument of menace and coercion to one of protection the working population has emerged with a powerful means for securing just and equitable rewards for their labour and for the determining of hours and working conditions. But it would be rash to suppose that this instrument of law is yet firmly in the grasp of the workman for legislation was introduced in 1940 under cover of a "national emergency" and accepted in the name of patriotism and condoned if not advanced by men owing great responsibility to trade unionists, legislation which bears a close resemblance to the Statutes of Labourers of six hundred years ago. Certainly it might well be it was modelled on the Statute of Artificers of 1563, if we allow for adaptation to modern conditions. That Statute of Elizabeth provided that all able-bodied men were liable to serve as agricultural labourers, unless they belonged to certain trades or classes—that was industrial conscription, whether the reasons were good or bad; all hirings were for the year, there was no casual day labour—in short a "guaranteed" year instead of a "guaranteed" week; when leaving one employer for another the labourer had to produce a certificate of release from the first—in our time he has had to obtain the permission of the National Service Officer. Much has been claimed for the "guaranteed week" embodied in this legislation of 1940; but is a guaranteed week in the bonds

of a slave so estimable a thing? Well might such a worker echo philosopher Teufelsdrockh, "... mock me not with the name Free, 'when you have but knit-up my chains into ornamental festoons'."

The Education Acts

Education has come to be such a common-place part of our everyday life that people either overlook or they do not know of the struggles that have gone before to give the nation its present system. It is our purpose here to outline the development of our national system of education to show how much we owe to certain inspired individuals who believed that good citizenship could arise only from a well educated community, and to show how the law has been used as an instrument for the formation of a national education policy. As we shall see, and as was the case with the Poor Law and Factory legislation, there was no settled policy at first, only piece-meal attempts to remedy specific defects in our national life. Policy is formed only after so much pioneering has been done that the shape and size of the problem is known and a key has been provided for its systematic solution. That such an outline as we propose must leave gaps is obvious for the subject has already filled multitudinous books, therefore, we shall leave it to the reader to pursue further reading about the development of education if his interest urges him on.

From the earliest times of our history endeavours to give instruction in one form or another have been made, and from the Norman Conquest to the dissolution of the monasteries the Church was active in founding schools and generally aiding the work of education. As is well known Edward VI founded a number of grammar schools throughout the country. But at the opening of the nineteenth century the mental and moral condition of a very large proportion of the working population was deplorable. The landed gentry firmly believed that even the most elementary education would destroy the supply of servants; and the Brougham Commission (1816-18) found that the charity schools throughout the country, which might have done much to meet the need of the time, were

monopolized by the landlords and the clergy of the parishes who embezzled the ample revenues provided for educational purposes. In some schools there was not a single scholar; in others, for instance, the free grammar school at Pocklington, Yorkshire, which had an endowment of one thousand pounds a year, there was only one scholar. There is no doubt that interest in the question of educating the masses was stimulated by, and ran parallel with, the efforts to improve the lot of the labourer in factory and on farm one hundred and forty odd years ago. The same names are often found associated with both movements. Whitbread, for example, made great efforts to enact minimum wages in 1786 and in 1800: he was foiled by Pitt. In 1807 he tried to persuade Parliament to establish elementary schools throughout the country; again he failed through the opposition of the landed gentry and the Church. And Robert Owen, it will be remembered, when he built his factory at New Lanark not only paid good wages and limited the hours of work but also provided schools for the children. There were others, some well known, some obscure, Baron Brougham and Vaux; Francis Place, the Charing Cross tailor. Until 1870 the whole system of national education in this country relied on voluntary effort, and during the first part of the century the effort rested mainly with two societies—the National Society for the Education of the Poor, founded in 1811, of which Dr. Bell was superintendent, and the British and Foreign School Society founded in 1814. In 1816 a Commission was appointed under the chairmanship of Lord Brougham "to enquire into the education of the lower orders of the Metropolis, and to consider what may be fit to be done with respect to the children of paupers who shall be found begging, and whose parents have not sent them to school." The Commission sat for two years collecting and sifting evidence. It suggested an enquiry into the administration of charitable organisations, to the maladministration of which it pointed, as we have just mentioned, and met with great opposition. In 1846 the Privy Council Committee of Education (p. 30) in its celebrated minutes proposed to substitute the monitorial system by the

apprenticeship of elder scholars as pupil teachers; to provide scholarships to training colleges for teachers; to make payments to head teachers for giving special instruction to pupil teachers outside school hours; and to extend the school inspection system, chiefly optional on the part of school managers, making the grants to teachers dependent on the result. The school attendance figures continued at a miserably low level so that in 1853 a Council minute made a capitation grant subject to the scholars making 176 attendances in the year and certain other conditions. In January, 1856, this grant was extended to the whole country. In the same year the first vice-president of the Council Committee was appointed. The Government in 1858 appointed a kind of judicial commission under the presidency of the Duke of Newcastle to investigate and report on the whole subject of elementary education. The Commission selected ten areas for investigation, viz., two each, rural, manufacturing, mining, maritime and metropolitan. In the same year all the minutes of the Council under which the parliamentary grants had been administered were codified for information as to the law and issued as a state paper known as Lord Norton's Code; the first of its kind. The Newcastle Commission sat for three years and reported that only one in eight of the child population attended any kind of school and under all sorts of teachers. Of these children only one in four was efficiently educated. The weakness of the system lay in the early school leaving age (eleven years) and in bad attendance. The report recommended the examination of every child individually by the inspectors. Consequent on this report Robert Lowe, vice-president of the Council drew up a code, which was withdrawn and replaced in the following year by the "First Revised Code." Hitherto all payments of parliamentary grants had been made for the building of schools, the endownment of training colleges and the like. Now grants were to be added for educational efficiency. The Code was bitterly opposed, but Lowe retorted, "If this new system be costly, it shall be efficient; and if it be inefficient, it shall be cheap." It was a move towards a real system of education.

For another eight years the voluntary system remained on trial. In 1867 there had been passed the Reform Bill which extended the franchise to a considerable section of the working population; and it provoked Robert Lowe afterwards rather bitterly and cynically to remark, "We must persuade our masters to learn their letters." Clearly the voluntary system was failing; failing mainly because parents did not understand their duty and responsibility towards their children. But who can impute blameworthiness to parents who had been brought up, and lived, in ignorance and squalor; to whom every few pence, no matter how gained, meant so much in their hard and dismal lives? Morally they were less blameworthy than the cultured, leisured opponents of educational and of every reform. The system failed too because of the lack of honesty and competence in those who made a pretence of imparting instruction. The time had come when the educational need of the country could no longer be denied. On 17th February, 1870, W. E. Forster, the vice-president of the Council introduced into Parliament his Elementary Education Bill. The Bill was designed to fill the gaps in the existing system by setting up school boards with power to levy rates for the provision of school buildings, equipment and staffs where there was insufficient voluntary accommodation; to compel the attendance of children between five and thirteen (later raised to fourteen) by powers exercised under local by-laws; to maintain a specified standard of instruction through the employment of certificated teachers; by inspection, and by annual examination by which the amount of the grant was to be determined. The facilities provided by this Bill were not confined to the labouring classes; and it also contained a conscience clause with respect to religious instruction which might be invoked by any parent. With the passing of the Bill there was laid the foundation of a national education policy to make efficient instruction available to every English child and to cover England with good schools. Here then is yet another instance of the law being employed as an instrument to form and give effect to a policy—the adopted policy of the rulers, in this case—

which one might suppose would be dictated alike by reason and nature. It is interesting to notice that such action was made necessary as much by the contentious obstructiveness of rival bodies supposedly interested in providing educational facilities as by the obstructive tactics of ignorant parents. This Act of 1870 is all important as being at once the foundation and coping of our national educational system. Commissions have sat since the passing of this famous Act—the Cross Commission, 1886, the Bryce Commission, 1894; Acts have been passed—in 1873 and 1876, in 1899 creating the Board of Education, in 1902 creating Local Education Authorities. There have been Acts between, and since, these up to the latest of 1944. We cannot consider them all in detail here, nor is there need to do so for they are but modifications, usually in detail or in development and expansion, of the original Act. Now the test of the adequacy of the system is this: does it provide a continuous and unobstructed staircase for ascent from the ground floor to the apex of the educational pyramid by *every* child, regardless of parentage or condition, who has the ability and stamina to make it? Of the value of the work of the various Commissions and the operation of the Acts the acid test is: have they facilitated the educational ascent of the deserving and able? Are their recommendations and requirements still within the limits of what is essential to a liberal education? Those are the matters upon which the citizen must satisfy himself. A negative result from any of the tests would suggest a misuse of the nation's resources.

We have tried to illustrate in these pages the use of the law as an instrument of policy; in this case social policy. In effect the purpose is to make obligatory on the whole community the observation of those standards and practices in its social life which the more benevolent and high-minded of its members voluntarily accept as a proper course of conduct. In fact the more intelligent and humane lift their lagging fellows to a higher level with the aid of legal sanctions.

Law: An Instrument of National Policy

At the outset we said the purpose of governments is to

govern: trade being an essential part of the life of the people (p. 2). Without involving ourselves in a discussion of *laissez-faire* and socialism we may say that statement is generally true. But few governments at any time have been content to leave trade, commerce and industry entirely free to follow their own course. Either it has been held necessary to interfere in order to satisfy their function as a government to protect the nation's interests or to ensure its safety; or the interference has been a matter of policy to satisfy a doctrine, as is the case of modern socialism, or simply for the purpose of securing a source of revenue not under parliamentary control as was the case in the time of the Tudors and Stuarts. In all cases the ultimate result, from the agricultural, industrial and commercial point of view, is the same. Those engaged in trade, commerce and industry are inclined to believe, with some show of reason, that having devoted their energies and lives to the pursuit of these operations they understand them better and can conduct them more efficiently and economically than those remote from, and having only an academic knowledge of, these aspects of the nation's life. The farmer, the trader, the merchant and the industrialist are all, therefore, inclined to resent government interference when it is other than purely protectionist. On the other hand it is easy to see that in face of threatened famine or of national danger in time of war, for example, there is need to ensure a uniform and systematic distribution of food in the first case, and it is essential to conserve the nation's resources and to deprive the enemy of all economic advantages within the nation's control in the second case. To achieve such ends it is impossible to rely on individual virtuousness; there must be the means of compelling conformity. So the government supports its policy with the aid of legal sanctions. Examples may be found anywhere and everywhere in history of the law being used as an instrument to make effective a policy to ensure the nation's safety. The weakest point in the economy of this island people has always been grain production. About the opening of the sixteenth century the landlords, realising how profitable sheep-farming could be, began enclosing extensive

areas—reducing the arable area, dispossessing the cultivators of the soil and creating unemployment; at once threatening seriously to diminish the corn production of the country and the class from which the English armies were recruited, and on which the country was financially dependent. So we find the government, when not absolutely in the hands of the great landowners, intervening with legislation to bring pasture back under the plough, to restore farm buildings, to limit the number of sheep owned by one man, fixing four acres as the minimum for every newly-built cottage, and imposing fines on any converting arable to pasture. To complete the policy of encouraging corn growing Statutes were enacted from 1534 onwards guaranteeing a minimum price to farmers; and to control the internal corn trade farmers were required to furnish returns of their stocks and obtain licences for movement of corn out of the district from the Clerks of the Markets, officials representing the central government. The policy fell into disuse under the incompetent Stuarts. The protection of the corn grower against unprofitable prices continued through the seventeenth century, and indeed, the restrictions on internal trade were not removed until 1773. After the Napoleonic wars to protect the English farmer the import of corn under 80 shillings a quarter (18/8 per cwt.) was forbidden by the Corn Law of 1815. That protection continued until the "Hungry Forties" when, in conseqnece of the failure of the potato crop in Ireland and the harves in England, Peel repealed the Corn Law in 1846. To tha policy of complete protection there can be no return because, no matter how desirable it may be to be self-sufficient in food at least, the size of the population is now such that the gross area of the country would be quite inadequate for subsistence. In fact, of course, the area available for agricultural purposes is much less. Such are some instances of the application of the law in support of the government policy of protecting that branch of agriculture which is the weakest in our economy.

As another instance of the government of the day deeming it expedient to intervene in the affairs of commerce and in-

dustry with the whole weight of the law for economic or strategic reasons we may cite the action of Edward III. in respect of the woollen industry. In 1332 he, by law, forbade the wearing of imported cloth, except for the wealthy; then he encouraged the entry into the country of foreign craftsmen and artisans, making liberal promises to such settlers in a Statute of 1337: this to revive the manufacture of woollen goods. He also took steps to protect the industry; prohibiting the importing of foreign cloth and the exporting of English wool. It is to be noticed that foreign policy and the conduct of the French war sometimes interfered with these economic measures.

The "export or die" story and the problem of balancing imports and exports are not new, though perhaps they are truer and rather more urgent today than in 1615 when James I, or rather his advisers, tried to force finished cloth on the Dutch. James really had his eye on a revenue free from parliamentary control to be provided by Cockayne's scheme for a monopoly on finished cloth, though his ostensible reason was economic. The Dutch saw to it that the scheme failed. It was withdrawn two years later. In the 18th century the government continued the policy of encouraging the woollen industry, going so far to discourage its competitor the cotton industry as to forbid the use of calico in 1720.

With the object of encouraging the shipbuilding industry for economic as well as defence reasons the government from time to time has enacted Navigation Acts—1381, 1485, 1488, 1651 and consolidated in 1845—by which goods were to be imported only in English ships or ships of the country from which the goods originated. These Acts, however were repealed in 1849 and 1853 as to foreign and coastwise traffic resepectively; though they had been virtually annulled by the Reciprocity of Duties Bill introduced by Huskisson, President of the Board of Trade, in 1823.

In concluding this brief review of the use of the law as an instrument of national policy we may revert for a moment to the method of raising a revenue without recourse to Parlia-

ment employed by the Tudors and Stuarts. The Crown assumed the prerogative of regulating almost all matters of commerce at its discretion, granting patents of monopoly to deal exclusively in certain articles, usually imported, to courtiers who sold them to companies of merchants. The practice grew until scarcely any article was exempt from these patents. Hearing a list of them read in the House in 1601 one member asked, "Is not bread among the number?" Licences, too, were granted for exclusively carrying on certain trades. Elizabeth claimed this method of compensating for want of subsidies as the sovereign's prerogative "the choicest flower in her garden and the principal and head pearl in her crown and diadem." When Parliament addressed the Queen in 1597 on the abuse of monopolies she promised to examine all patents, "and to abide the touchstone of the law." In the time of James I one of the most objectionable of these monopolists was a Sir Giles Mompesson who held the patent for licensing inns and alehouses as well as a patent for gold and silver thread. He sold a thread of baser metal, and when the House of Commons proceeded to investigate he fled overseas. In 1624 Parliament enacted a Statute abolishing monopolies for the sale of merchandise and for using any trade: reciting the fact that they are already contrary to the ancient and fundamental laws of the realm. In doing so they reasserted their invaluable right of controlling the resources of the Crown.

We have attempted to convey an idea of the extent to which personal relations can be, and are, regulated in an organised community; and we have laid some emphasis on the relationship between the law and political policy and the policy of the body politic, both as a formative agent and as an instrument of fulfilment. The whole point of submitting to the rule of law, we stated at the outset, is to make community life possible for the enjoyment of each other's fellowship and communion, for the purpose of promoting our mutual convenience and providing for our common safety. When the conditions necessary for the attainment of these desirable ends have been by law established one might suppose the work of the legislator done. But in fact it goes on; and the

tendency seems to be to legislate in more and yet more detail, the final result of which, if the process uninterruptedly continues can be only the complete subordination of the individual to the State—where to draw the line? That is the question. The citizen alone and in association with his fellows can determine that. He and they alone can decide how to draw the line. Such are your problems.

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III.—ADMINISTRATION AND INTERPRETATION OF THE LAW

(a) The Sovereign Power of Government

In Great Britain the sovereign power of government resides in a trine authority: the legislature, the law-making body; the administrative offices of State, which bring the law into effect; and the judiciary which interprets and enforces due observance of the law. But though these three are one as the sovereign power they are each separate and distinct as to function and sphere; and the judiciary is, with qualification, independent of the other two. The legislature is elective and dependent upon the will of the people; the administrative officers of State, the civil servants, are functionaries paid by the State and dismissible at the pleasure of the Crown, without reasons given and without appeal; but the judiciary since the Act of Settlement, 1701, is appointed for life, with the exception of the Lord High Chancellor who holds office during the life of the government for the time being. The judges' commissions from the Crown are made "*quamdiu se bene gesserint*," and they may be lawfully removed from office only on the address of *both* Houses of Parliament. They enjoy immunity from public criticism, even in Parliament itself, and from legal imputability for anything they may say or do in the exercise of their office. This immunity, and this independence of the judiciary within its province of interpretation, are matters of the highest constitutional importance; for only so is it possible to uphold

the principle that justice is an end in itself, to be administered impartially, without fear or favour, without regard to person or office or expedience. Indeed, in every country where the executive has succeeded in usurping the functions of the judiciary the democratic character of government has been suppressed. It would be unwise to ignore the fact that even in our own country a very marked tendency to encroach on the sphere of the judiciary has been manifested by the executive, usually on the ground of expediency. Having remarked on the high importance of these matters we will now consider the judiciary and its functions in detail.

We have already noticed that the Supreme Judicial Authority *of the Commonweath* is the Judicial Committee of the Privy Council (p. 8). Here we may add that other members, additional to those we mentioned, being judges from the Dominions, sit by virtue of various Acts, 1895-1928.

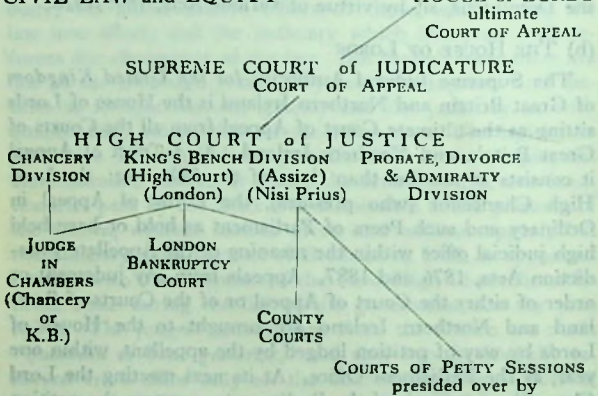
(b) The House of Lords

The Supreme Judicial Authority *for the United Kingdom* of Great Britain and Northern Ireland is the House of Lords sitting as the ultimate Court of Appeal from all the Courts of Great Britain and Northern Ireland. As a Court of Appeal it consists of not less than three of the following: the Lord High Chancellor (who presides), the Lords of Appeal in Ordinary and such Peers of Parliament as hold or have held high judicial office within the meaning of the Appellate Jurisdiction Acts, 1876 and 1887. Appeals from any judgment or order of either the Court of Appeal or of the Courts of Scotland and Northern Ireland are brought to the House of Lords by way of petition lodged by the appellant, within one year, at the Parliament Office. At its next meeting the Lord Chancellor, or Clerk of the Parliaments, presents the petition to the House, after which an order is issued and served on the respondent requiring him to lodge his printed case. If the respondent intends to contest the appeal he enters an appearance and the appellant gives security for costs. Each party then lodges a printed case stating facts and reasons in their favour, with an appendix of printed copies of the docu-

ments and evidence used in the Court below. The appeal is then heard and determined. There is also a limited right of appeal from the Court of Criminal Appeal to the House of Lords on matters of law.

(c) The Royal Courts of Justice

The building which houses the Courts of Appeal and the High Court of Justice is situated in the Strand, London, and was opened by Queen Victoria in December, 1882; it is known as the Royal Courts of Justice. The Metropolitan Bankruptcy Court is in Carey Street, behind the Royal Courts of Justice. Reference to the diagram (pp. 112 & 113) will help us to make our description of the various Courts as concise as possible.



Nisi Prius—hearing of civil causes by judges of assize; Court business of this kind.

The *record of nisi prius* is an official transcript or copy of the proceedings in an action. It serves as a warrant to the judge to try the cause, and it is the only document at which he can judicially look for information as to the nature of the proceedings and the issues joined between the parties.

On the left—the Civil Law and Equity—side the reader will see that the Supreme Court of Judicature, the Court of Appeal, is the Court immediately below the House of Lords. It was established by the Judicature Acts, 1873-75. There are now eight salaried judges attached to this Court (£5,000 a year each) who are the Lord Justices of Appeal; they are also members of the Privy Council, and their effective head is the Master of the Rolls (£6,000). Though ex-officio judges the Lord Chancellor, the Lord Chief Justice of England, and the President of the Probate, Divorce and Admiralty Division practically never sit there. Not more than three usually sit at any one time. In the Supreme Court of Judicature every appeal from a judgment or order of the High Court of Justice, that is to say, from any one of its divisions, is brought on by a motion in the Court of Appeal asking that the judgment or order complained of may be reversed, discharged or varied.

THE HIGH COURT OF JUSTICE

By the Judicature Acts, 1873-75, the jurisdiction of the superior Courts of Justice, which were formerly the High Court of Chancery, and the Courts of Queen's Bench, of

Common Pleas, of Exchequer, of Admiralty, of Bankruptcy, of Probate, and the Court of Divorce and Matrimonial Causes, was united, consolidated and vested in the High Court of Justice. To it passed also the jurisdiction appertaining to such courts as are created by commissions of assize, of oyer and terminer, and of gaol delivery. It is now constituted a superior Court of Record. All matter originated in, or sent up from the courts below to, the High Court are adjudicated or adjudged in one of its divisions, i.e., the Chancery Division, the King's Bench Division, or the Probate, Divorce and Admiralty Division. To each of these divisions puisne judges are appointed and commissioned by the Crown for life (p. 146) at a salary of £5,000 per annum: some five to the Chancery Division with the Lord Chancellor (£6,000) as the ex-officio senior judge; about 17 to 20 to the King's Bench Division under the Lord Chief Justice of England (£8,000); and seven, at present, under the President of the Probate, Divorce and Admiralty Division.

(a) *The Chancery Division*

The Chancery Division of the High Court of Justice possesses the same jurisdiction and powers as the old Court of Chancery in matters of civil property. It is probable its jurisdiction in equity arose out of the frequent failure of justice in the common law courts owing to the fixed and inflexible character of the writs issued for the commencement of actions. Application for redress was made to the Sovereign in person, and he in turn referred the matter to the Chancellor for him to decide according to the circumstances (the equity) of the case. Indeed the judicial employment of the Chancellor in early times seems to have been very largely the devising of new writs directed to the courts of common law to afford a remedy in cases where none was to be had before.

In 1875 the jurisdiction of the Chancery Court was defined in section 37 of the Judicature Act, which is now incorporated in the Judicature (Consolidation) Act, 1925. Section 56 of this Act specifically assigns to the Chancery Division, *inter alia*, the administration of estates of deceased persons; disso-

lution of partnerships, or the taking of partnership, or other accounts; the redemption or foreclosure of mortgages; the raising of portions or other charges on land; the sale and distribution of the proceeds of property subject to any lien or charge; the execution of trusts, charitable or private; the rectification or setting aside or cancellation of deeds or other written instruments; the specific performance of contracts between vendors and purchasers of real estates, including contracts of leases; the partition or sale of real estates; the wardship of infants, and the care of their estates; actions in which an injunction is sought; and also with bankruptcy and winding-up business.

The five puisne judges of the division—the number varies from time to time—are divided into two groups with two sets of chambers. They work in pairs, each pair with one list of causes; the one judge trying the witness actions in the list, the other attending in chambers and also hearing motions, petitions, adjourned summonses, and non-witness cases. This working arrangement was devised to spare litigants in witness cases the expense involved in adjournments. Attached to each group of the judges are four Masters of the Supreme Court (formerly known as Chief Clerks), making a total of eight Masters with a Chief Master attached to all the judges. These officers are concerned with matters of preliminary formality and investigation and court administration; they have no judicial functions.

(b) *The King's Bench Division*

The King's Bench Division of the High Court of Justice, as will be apparent from the diagram (pp. 112 & 113), has jurisdiction in matters civil and criminal. The name of this division recalls the fact that justice was dispensed formerly in the presence of the king's person, and in contemplation of law this is still supposed so to be. Civil cases arising in London and Middlesex are heard and determined in the Royal Courts of Justice in the Strand. All other cases, originating in the King's Bench Division or committed to it from the Courts below, are tried by judges of the Division

on circuit. England and Wales are divided into eight circuits and the Assizes are held three times a year: the Winter Assizes about the middle of January; the Summer Assizes about the middle of May; and the Autumn Assizes about the middle of October. There is an additional Assize for Lancashire and Yorkshire only in May. The criminal cases in the calendar are tried by the "red" judge in the Crown Court and the civil causes are heard by the judge in the Nisi Prius Court. It must be noticed, however, that civil business is *not* taken at all Assizes, for example, at the Autumn Assizes in the South Wales Division held at Carmarthen and Brecon only criminal business it taken. On the Oxford circuit, too, at the Autumn Assizes civil business is taken at Gloucester and Shrewsbury only. Divorce business also is taken at only certain of the towns on the various circuits. But at the moment new arrangements are being made whereby a considerable part of this work will be done in future by County Court judges.

(c) *The Court of Appeal*

Appeals from judgments or orders of the King's Bench in civil causes lie with the Court of Appeal, and in criminal cases with the Court of Criminal Appeal against convictions and sentences. The Court of Criminal Appeal was set up in 1907 and occupies in the administration of the criminal law a position analagous to that of the Court of Appeal in Civil Law. There is a limited right of appeal from the decisions of the Court of Criminal Appeal to the House of Lords by the Criminal Appeal Act, 1907. It is subject to the granting of a certificate by the Attorney-General when he is satisfied that a point of "exceptional public importance" is involved. The judges of the Court of Criminal Appeal are the Lord Chief Justice and all the judges of the King's Bench Division. Three usually sit, and, of course, they are not the judges who tried the case in the Court below. They have the power to increase sentences as well as to reduce them, or entirely to quash the conviction.

The title of the Probate, Divorce and Admiralty Division

is sufficient to explain its general functions.

The Central Criminal Court ("Old Bailey") at the junction of Old Bailey and Newgate Street, London, was opened in 1905 and replaces the old Sessions House. There are four courts, two of which are used for important and two for minor trials. Ten days in the year between January and October are appointed for the holding of Sessions. The judges are the Lord Mayor of London, the Lord Chancellor, any ex-Lord Chancellor, any judge of any of the Superior Courts, the Aldermen, Recorder, Common Serjeant and the judges of the Mayor's and City of London Court for the time being. In practice cases come before one of the last three mentioned.

(d) *The Central Criminal Court*

The Central Criminal Court for serious criminal cases arising in the Greater London area takes the place of the Assize Court in the provinces. Such cases are tried by judges of the King's Bench Division sitting in rotation. To this Court cases are committed for trial from the Metropolitan Magistrates' Courts in the same way that criminal cases in the provinces are committed for trial at the Assizes by the Courts of Quarter Sessions and Courts of Petty Sessions. And right of appeal against conviction and sentence by this Court lies to the Court of Criminal Appeal as to fact and law.

(e) *County Courts*

County Courts were established by an Act of Parliament—the County Courts Act—in 1846 in place of the old time courts such as the Court of Requests, which may be regarded as a survival of the Saxon Shire Moot. The country is divided into 59 circuits to each of which a judge is appointed from among barristers of at least seven years' standing by the Lord Chancellor who may remove such a judge for incapacity or misbehaviour. The salary of the judges, £2,000 per annum is paid from the Consolidated Fund. To exceptionally busy circuits (e.g., Liverpool, circuit 6) an additional judge is

appointed. The business of these Courts is chiefly concerned with the recovery of comparatively small debts, and it has been much increased by the administration of the Rent Restriction Acts and the growth of the hire-purchase system. The jurisdiction of the County Court is in general limited by the value of the sum involved, except that, for example, personal claims in which libel, slander, seduction or breach of promise, and so on, shall come in question, cannot be tried by the Court irrespective of the sum involved. But by agreement of both parties all actions assigned to the King's Bench Division of the High Court may be tried in the County Court; and actions of contract under a certain amount in the High Court may be remitted by a judge of the High Court for trial by a County Court judge. An appeal is allowed where more than £20 is in dispute, in other cases only if the judge thinks the appeal "reasonable and proper."

(f) *Courts of Sessions*

Courts of Sessions are sittings of the justices of the peace. They are of three kinds: Quarter or General Sessions, Special and Petty Sessions.

Courts of Quarter Sessions are courts of record held in ery county by the justices of the peace for the execution of authority conferred by their Commission. The Criminal stice Administration Act, 1925, requires Quarter Sessions *Counties* to be held within the period of 21 days immediately preceeding and immediately following the four Quarter Days. *In Boroughs* the Quarter Sessions are fixed by the Recorder or a Commission of the Peace. The jurisdiction of the Court of Quarter Sessions extends to the whole county. Appeals from Petty Sessions are heard by Appeals Committees of the justices and virtually amount to a re-trial, for the case is heard afresh. As courts of first instance they try criminal cases with a jury; but in criminal cases their jurisdiction is limited. They may not try cases involving capital punishment, though formerly they had a high criminal jurisdiction and could try cases of treason. Neither can they hear certain felonious charges, e.g., forgery, perjury, nor cases

involving certain points of law, e.g., criminal libel. Until the setting up of the County Councils in 1888 they were also administrative assemblies for the government of their respective counties, levying rates and so on. The chairman and the vice-chairman are elected by the justices in commission, and although not necessarily lawyers they are often persons of eminence in the legal profession, such as King's Counsel, County Court judges and judges of the Superior Courts. In a city or corporate town having a jurisdiction or court of record a Commission of the Peace presided over by Borough justices or the Recorder has a jurisdiction similar to that of Quarter Sessions. Appointed by the Crown, though paid—usually a nominal salary because he may continue to practise—by the Borough, the Recorder is a barrister of at least five years' standing.

Special Sessions are the meetings of two or more magistrates held for some special purpose, such as the annual Licensing or "Brewster" Sessions which are regulated by Section 10 of the Licensing (Consolidation) Act, 1910, for the licensing of public houses, dance halls and other places of entertainment; or the Special Sessions for licences to deal in Game, held in July each year. Such Sessions as these are a survival of the magistrates' former authority as county government administrators.

A Court of Petty Sessions consists of two or more magistrates, or a Stipendiary Magistrate, a barrister appointed by the Home Secretary, for the transaction of business requiring the presence of more than one of the unpaid justices of the peace. The Court assembles as convenience may require; in some places daily, in others once a fortnight, the justices serving on a rota. A Magistrates' Court (often erroneously called the "Police Court") is a court of summary jurisdiction in minor civil and criminal cases; its jurisdiction is limited by several factors, the two most important being the character of the offence and the penalties that may be imposed. The Clerk of the Court, who is a lawyer, advises the Bench on these matters; in fact he is there in the role of adviser and secretary to the Court. For the more serious indictable

offences procedure is regulated by the Indictable Offences Act, 1848, and a Court of Petty Sessions can only make what amounts to a preliminary investigation to ascertain whether there is a *prima facie* case, not whether the accused is guilty. It is an enquiry not a trial; and it may be held in private, though this is rarely done. Evidence is taken on oath and any statement the accused may make is taken down by the Clerk of the Court. If the magistrates are satisfied that there is a *prima facie* case against the accused they either commit him to prison to await trial or require him to provide sufficient security that he will appear for trial at Quarter Sessions or Assize, to whichever he may be committed; otherwise he must be discharged. The maximum aggregate sentences that may be imposed by a petty sessional court are twelve months imprisonment, with or without hard labour; and for the non-payment of a fine it is three months. But certain Acts of Parliament and recent Defence Regulations have conferred on magistrates the power of inflicting heavier fines and penalties for non-payment than formerly. These regulations also provide that the costs of the Magistrates' Court can be deducted and the balance of any fine up to £500 applied in accordance with the provisions of the Criminal Justice Administration Act, 1925. Anything over that sum must be paid to the Exchequer. The court fines are allocated by the Criminal Justice Administration Act to various purposes such as police and pension funds and other public requirements. Appeals from the Courts of Petty Sessions may be made either against conviction or sentence. If the appeal is intended to secure the rectification of an error in law, or if the aggrieved party holds that the Petty Sessional Court has exceeded its jurisdiction, the appeal is carried to the King's Bench Division of the High Court; otherwise the appeal will be heard by the Court of Quarter Sessions.

A Magistrate sitting alone (otherwise than a Stipendiary, or the Lord Mayor or an Alderman of the City of London) cannot impose a sentence of imprisonment of more than fourteen days, nor a fine of more than twenty shillings. But he may issue warrants of arrest and summonses to appear

as to offenders and witnesses.

The Commission of a justice of the peace is from the Crown, but his appointment is in fact made by the Lord Chancellor usually on the recommendation of the Lord Lieutenant of the County. The Lord Chancellor may, if he considers there is sufficient cause, incapacity or misbehaviour, call on a magistrate to resign, or remove him from the Commission of the Peace. The office is unpaid. Historically it may be traced back to 1360, or even to those knights of the shire known as Conservators of the Peace.

(g) *Juvenile Courts*

By the provisions of the Children and Young Persons Act, 1933, a system of juvenile courts was set up to deal with offenders under the age of seventeen. Every petty sessional division is required to form a panel of specially qualified justices to sit in these courts whose aim is preventive and curative rather than punitive. In order to protect these young offenders from any adverse effects of publicity there are certain restrictions on the reporting of proceedings. Children dealt with by these courts are either sent to Approved Schools or otherwise protected from moral danger and the consequence of associating with unfit companions or the unfitness of their parents to discharge their responsibilities.

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(h) *Summary*

We have just discussed in broad outline the system for the administration and interpretation of the law in this country. It now remains for us to add a few words in explanation of the procedure followed in the Courts. Whether the proceedings be criminal or civil certain formalities have to be complied with before the trial or the suit can be brought before the Court; and when the case is ready for hearing the procedure in the Court follows a definite course. Both the preliminary formalities and the procedure in Court are regulated by the rules of procedure; the rules of court drawn up by the Rules Committee of the Supreme Court under

authority conferred by the Supreme Court of Judicature (Consolidation) Act, 1925. These rules are embodied in the *Annual Practice*, a rather bulky handbook for lawyers. They are altogether too technical and too complex to be discussed here; but it is important to realise that such rules do exist for the guidance of the Courts in the conduct of their business, and to promote the ends of justice. Now, in Court the accusing, the affirming or aggrieved party, according to the type of action is called on first to state its case, except in appeals other than to Quarter Sessions, and to produce its evidence written and oral. There are rules also governing the production of documents and writings (the discovery of documents, as it is termed) used in evidence for the benefit of the opposing party. The witnesses, who give oral evidence on oath (with certain exceptions) are first examined, that is, questioned for the party in whose behalf they appear; they are then subjected to cross-examination by counsel for the opposing party. The defence is then called on to make its reply to the accusation and to produce its evidence, written and oral. After the witnesses for the defence have been examined by the defending counsel and cross-examined by the opposing counsel, the prosecution or plaintiff has the right of reply. The judge then sums up, if it is trial by jury, drawing attention to the important facts of the case on both sides and giving his directions on points of law. If the jury find the case proved in a civil case the judge has to decide the judgment to give, and in certain cases he may assess the damages to be awarded to the complaining party. In a criminal case on the jury returning a verdict of "Guilty" the police record of the accused, if any, is put in so that it may be taken into account by the judge in passing sentence.

Evidence as we have seen may consist of the oral testimony of witnesses given on oath, or it may be contained in records and documents under seal or in deeds and writings not under seal, between which we need not distinguish here. Now by the law of the country a body of rules known as the law of evidence has been gradually established regulating the admissibility of evidence and prescribing its quality (see the

Evidence Act, 1938). We may say that the leading rules of evidence are: 1. The sole purpose and end of evidence is to ascertain the truth of the disputed facts or points in issue. No evidence, therefore, should be admitted which is not relevant to those facts or points. 2. The charge must be proved by the person making the accusation; it being an established principle of justice in this country that a person is not known to have acted contrary to the law until it is proved. 3. It is sufficient to prove the substance of the issue. 4. Hearsay evidence is not admissible as to fact. 5. No person is bound to criminate himself. As a whole the law of evidence, in this country, may be described as a system for the restriction of the admission of testimony to that which is relevant to the facts or points in issue.

Taken together and applied in spirit as well as in letter the rules of procedure and the law of evidence vindicate the law and ensure that "not only must justice be done, but it must appear to be done." They confer, too, upon the proceedings of our Courts a dignity and authority often lacking in the Courts of other countries.

Finally we must mention that before the law there is an equality among men; all are equally entitled to justice. "To no man will we sell, to no man will we refuse or delay right or justice," says Magna Carta. Reality is given to this promise by a system now existing whereby Poor Persons may have the benefit of legal aid (under certain conditions) in civil as well as in criminal proceedings (The Poor Persons Defence Act, 1930). For civil cases the system is administered by the Law Society, through various Provincial Law Societies and through "Poor Persons Committees." In criminal cases, for indictable offences, the Bench may grant a Defence Certificate where it is thought desirable and must be granted if the charge be one of murder.

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(i) *Tribunals*

Apart from the judiciary a number of tribunals exist at present set up by various Departments of the Central

Government under authority conferred by Act of Parliament. Nominally the authority is conferred on the Minister of the Crown at the head of the Department; in fact it is delegated to Civil Service officials, and often quite subordinate officials. There are a number of these tribunals, such as the Court of Referees set up under the Employment Insurance Regulations, 1936, and the Local Appeal Boards of the Ministry of Labour to enforce the Essential Works Order (now lapsed)[1]; the various Marketing Boards under the Agricultural Marketing Acts, 1931-33; and Advisory Committees of the Ministry of Health which may exercise disciplinary powers over doctors and chemists under the National Health Insurance Acts; and others too numerous to mention here. Their existence, it is claimed by the Executive, is justified on the grounds that such tribunals are more expeditious and less expensive than the High Court of Justice. But the wise citizen will very carefully weigh such apparent advantages against the fact that these tribunals may conflict with certain basic principles for the administration of justice in that 1. The Minister is not only the prosecutor but often also the final appelate authority in his own cause; 2. The tribunal itself may not be impartial since it may consist of persons holding office under the Minister, or, as in the case of the Agricultural Marketing Boards may consist of persons having a financial interest in the working of the scheme; 3.The tribunal may sit in private; 4. It may not be bound by any rules of evidence; 5. Legal representation of the citizen may be expressly forbidden as in the Court of Referees (Unemployment Insurance Regulations) or in the Price Regulation Committees of the Board of Trade; 6. There may be no appeal from the decision of the tribunal; 7. The Minister may not be bound by the findings of the tribunal; and 8. Intervention by the High Court may be expressly precluded by the terms of the Act of Parliament bestowing authority on the Minister and his tribunal. It is not our purpose to argue the case here either for or against these judicial and quasi-judicial tribunals set up to determine special cases

(1) And the Control of Engagements Order, 1947.

between the citizen and the Ministers of the Crown. They stand quite apart from and outside the judiciary of this country; indeed they are not infrequently used as a means of preventing access to the judiciary proper by the citizen.

. . . . . .

We have now completed the first part of our task: a review of the organisation of the Central Government of the United Kingdom *as a system.* It will be remembered that we began with the assumption "All men desire to lead in this world a happy life . . . For this cause . . . God . . . appointed him a law to observe," and we pointed to the fact that that is the only probable reason for men consenting to be governed So we proceeded to examine the system devised by men to help them attain the object of their desire within the corporate life of a community, with special reference to the government of these islands. In doing so we have concerned ourselves, as we said we should, especially with the "mechanical" rather than with the human aspect because it is of the highest importance that every citizen should realise there is nothing of "mystery" in any system of government beyond the comprehension of an average intellect. If the average man but grasps that fact he will not be so easily deluded by the sophistry of the average politician.

We will conclude this section, then, by summing up as clearly and concisely as possible the sources from which all governments derive authority, and the factors on which a' systems rely for the exercise of control. First, every kin of government must be maintained in office and power eithe by the expressed consent of the governed or by the use ot force derived from a dependable military and police organisation. While recognising that the primary purpose of military power is the defence of the community against external aggression, and the first duty of the police is the preservation of law and order within the community we must not overlook that even popular governments may and do use these forces to uphold their own authority. The next important point is that authority and control cannot be exercised without the

use of funds contributed by the governed. Without money a government is helpless. And, lastly, a government cannot exercise its authority without the use of lines of communication, posts and telegraphs, roads and railways, for the distribution of orders, the collection of reports, the deployment of its forces and the movement of supplies and materials.

Of the structural features of government we suggest the most important objects of study are: the pyramidal hierarchy, which, based on the people and reaching out into every remote corner of the community, culminates in a grand committee or cabinet; the division of government tasks between departments and the sub-division of the work of departments down to the simplest mechanical and repetition tasks; the systematic collection, sifting, arrangement and distribution of information relating to persons and things involving the use of dossiers, files and filing cabinets, card indexes and all sorts of mechanical aids and gadgets for sorting and checking; and finally the use of the "committee idea" as in cabinet, council and conference—discussion groups with some external pomp.

PART II

LOCAL GOVERNMENT

I.—UNITS OF LOCAL GOVERNMENT

The guiding principle underlying our system of local government administration is to entrust special interests to those specially interested. To give effect to it the whole country is now divided and sub-divided into units each of which is administered by an elective council. These units may be grouped in what has been described as the "three-tier system" according to their territorial area and their authority and powers as *Counties* and County Boroughs, *Districts*, Urban and Rural, and *Parishes*. This system is only now about one hundred years old, for it came into being with the Municipal Corporations Act, 1835, the confirming Act, 1842, and the Local Government Acts, 1888 and 1894. The most important of these is the Act of 1888 establishing County Councils throughout England and Wales, and setting up County Boroughs as independent local government areas. From Anglo-Saxon times to the passing of these Acts in the nineteenth century local government was based on the Shire, the Hundred, the Chartered Town (Borough) and the Manor; and some of the existing local government areas are still identical as to boundaries with those marked out in the distant past.

(a) The Shire

We may recall here that the Shire was a principal divisio of the country, the largest territorial area of local government, with the earl, in many respects, the head of it. The Crown was represented within the Shire by the Sheriff who presided over the shire moot, that is, the Sheriff's or county court. The extent of the jurisdiction of this court gave it considerable importance, which, however, was diminished later by the appointment of knights in every shire as Conservators of the Peace empowered to enforce the provisions of the Statute of Westminster with respect to the peace of

the realm (1285). Our interest lies in the fact that with the extension of their powers these Conservators of the Peace later became known as the Justices of the Peace, and as such their office acquired considerable importance in the conduct of county government and retained it up to the passing of the Local Government Act, 1888.

(b) The Hundred

The Hundred was a division next inferior to, and part of a county; and governed by a High Constable or bailiff, appointed and dismissible by the court leet over which he presided. A Hundred was originally so called because each consisted of a hundred families of freeholders, or ten tithings: ten freeholders and their families comprised one tithing. We may remark it is generally supposed that King Alfred instituted the tithing to put down rapine and disorder, making those dwelling together surety for each other so that if any offence was committeed among them they were bound to produce the offender. No man was permitted to live in England for more than forty days without being enrolled in a tithing. The Hundred as a local government unit sustained a heavy blow by a statute, 32 and 33 Victoria, directing the justices of each county to consider and determine whether it was necessary to maintain the office of High Constable of each Hundred; and provision was made for the abolition of the office in certain cases and for the transfer of the duties to the clerk of the justices in each sessional division.

(c) Chartered Towns

The Chartered Towns, those Boroughs which took steps to acquire for themselves certain privileges and immunities, like all Boroughs not created by statute, have their origins in the distant past. Under the feudal system prosperous trading communities were often the subject of vexatious exaction from the lord of the manor enforcing obligations and services such as the use of the manorial mill and baking oven, the payment of market tolls and the rendering of military service;

from the King's Sheriff of the county who was at once chief magistrate, tax-gatherer and recruiting officer; and from the Clerk of the King's Markets. To obtain relief the townsmen often combined and sought, in return for the payment of a fixed sum, the grant of a charter from the King conferring the right to rule and tax themselves. By these charters of incorporation the boroughs acquired the right to appoint a ruling body, that is a council under a bailiff, later called the mayor; to hold a borough court immune from the Hundred Court, and sometimes from the Shire Court; and to levy taxes within the borough. Such is a brief summary of the rise of the ancient chartered towns. In 1832 the Reform Bill was passed by which a number of towns were made Parliamentary Boroughs for the first time, and in 1835 provision was made, among other things, for these new Parliamentary Boroughs to acquire municipal powers "upon the petition of the inhabitant householders of any borough in England or Wales." This phrase in the Municipal Corporations Act was found to be ambiguous. The validity of all the charters granted by Queen Victoria in Council was challenged and much litigation ensued with the new Corporation of Manchester taking a leading part in defence of the charters. It was finally deemed advisable to confirm all the charters by an Act of Parliament, 1842. But the Municipal Corporations Act, 1835, did more than provide the Boroughs with status, it gave them a form and constitution extending the idea of incorporation to *all* the Burgesses, i.e., the electors as distinct from the governing clique; giving the Council powers over the property of the Borough, the police, street lighting and markets and so on. It also included the first step towards administrative control by the Central Government by requiring Treasury sanction for the transfer of ownership of any municipal property. And not the least important feature of the Act was the authority it gave to Borough Councils to enact bye-laws.

(d) The Manor

The Manor, though it was essentially the unit of land

management, and though it was the smallest of the subdivisions of the country, was, nevertheless, important as an administrative unit. Indeed the local government of some of our largest modern cities, for example, Birmingham and Manchester, was, until they attained Borough status simply the government of a manor. The officers, the High Bailiff, Low Bailiff, Constables, Headborough, High and Low Tasters, Brook Looker, Mace Bearer, Butter Weigher, Affeafor and the like, were elected annually in Court Leet by a jury of the Lord of the Manor. A Court Leet was held in Birmingham as late as 1854, and in some parts of the country these elections still take place (rather as survivals) as in the Manor of Henley-in-Arden, Warwickshire. In the earliest times, especially, the manor was often also the parish, the chaplain of the Lord of the Manor being the parish priest.

The system of local government administration as it exists was made uniform throughout England and Wales by the Local Government (England and Wales) Act, 1888, and applied to Ireland by an Act of 1898. In Scotland the Local Government Act, 1929, brought about considerable reorganisation, the general principles being very similar to those obtaining in England and Wales. The most notable difference, perhaps, is the Scottish local authorities are less subject to the control of the Central Authority, that is, the Department of Health for Scotland.

i.—The County and County Borough

At the present time the most important of the local government areas are the Counties and the County Boroughs. There are sixty-two administrative counties in England and Wales formed by the partition of certain of the geographical counties, i.e., Sussex and Suffolk consist of two administrative counties each; in Yorkshire each of the three Ridings is an administrative county; in Lincolnshire also there are three administrative counties: Lindsey, Kesteven and Holland. Northamptonshire contains two: itself and the Soke of Peterborough. Cambridgeshire—itself and the Isle of Ely;

and Hampshire and the Isle of Wight are separate administrative counties. There is also the administrative county of London. In the first Schedule of the Local Government Act, 1933, 83 large towns are named as County Boroughs. A *Borough* cannot be erected into a new County Borough unless, among other conditions it has to satisfy, it has a population of 50,000.

As administrative units the County and the County Borough have equal standing. Each is independent of the other, and both are directly responsible to the Central Authority in London. Both have power to make bye-laws for their good government; and both maintain *Police* forces to uphold it. Both are *Health* authorities for the purposes of the Public Health Acts; and *Education* authorities by the Education Acts. These authorities are responsible, too, for the administration of *Poor Relief*—now called Public Assistance—under the whole body of the Poor Law: the upkeep of institutions and cottage homes for the aged and infirm in need and the relief of the unfortunate; for *Public Works*, the maintenance of highways, bridges and buildings, markets, parks and so on. They also have to carry out the provisions of a variety of Acts, such as the Sale of Food and Drugs Acts, the Weights and Measures Acts, the River Pollution (Prevention) Act, the Land Drainage Act, the Town and Country Planning Act, the Air Navigation Act respecting the provision of airfields, the Public Libraries Acts, and so on. They have many other functions which we have enumerated in the table on p. 142. Unlike the County Borough which collects its own rates, the County does not, but obtains its funds by making demands—issuing precepts—on the rate collecting authorities in its area; neither does it normally provide trading services, nor is the administration of all the services entrusted to it direct but through those units of local government which make up its area. The County thus becomes a supervisory and regulating authority between the smaller authorities and the Central Government.

Occupying an intermediate position between the first and second of the "three-tier" system is the Municipal Borough.

It enjoys a certain measure of independence; but it is not completely independent of the County authority. It has power to make its own bye-laws for good government; it may have its own police force, but where it has not the policing of the Borough is undertaken by the County. The Borough is also an authority for Elementary Education; Higher Education is vested in the County. And so, usually, is the maintenance of the principal through roads in Borough areas. The Borough, on the other hand, does provide trading services as Gas, Water, Transport, Markets and Housing. For these and the other services normally provided by a Borough it has authority to levy a rate upon the occupiers of land and buildings within its boundaries. The Borough must also collect the rates demanded of it by the County Council to defray the cost of the services provided by the County.

ii.—Urban and Rural Districts

Urban and Rural Districts as the second tier of the local government system occupy a position comparable to that of the Hundred in the Mediaeval system. In the modern system they came into being as sanitary authorities; in fact they were first called Urban and Rural Sanitary Districts in 1872. Now these authorities are mainly concerned with matters of public health, water supply, housing, building plans, and with the cleansing and repair of certain streets and minor roads. Urban authorities may also be elementary education authorities. From area to area there is some variation of function because while all authorities must fulfil their statutory obligations not all make full use of the powers *permitted* them by statute. Both Urban and Rural Districts are required to collect rates on their own behalf and on behalf of the County to pay for the services provided. In the rates collected by the Rural District are included also the expenses of the Parishes within the area.

iii.—The Parish

The Parish is the smallest of local government units as it was originally the smallest of the units of ecclesiastical

organisation. It often corresponded, as we have already mentioned, with the Manor; the chaplain of the lord of the manor being the parish priest. But it must be remarked that whereas more than one manor may lie within the boundaries of a parish we never find more than one parish within the manor. The Local Government Act, 1894, while recognising the value of the original parochial sub-division of the country for local government purposes, completely separated the civil from the ecclesiastical administration of the parish. Not even the boundaries of the civil and ecclesiastical parishes are now necessarily coincident. By the 1894 Act every rural parish having a population exceeding 300 must have a Council. If the population is between 100 and 300 the parish may have a council if it so desires, and a parish with less than 100 persons may have a council with the consent of the County Council. Where a Parish Council does not exist there must be a *Parish Meeting* which consists of all the local government electors in the Parish. The Parish meeting must assemble annually some day between the 1st March and 1st April, both days inclusive; and it usually does so in an evening. It is obliged to administer parochial charities, to appoint two members to the rating authority, that is, the Rural District, and to provide for the election of the Parish Council where there is one. It may veto the diversion or stopping of rights of way, and it may provide allotments; and it has the means of drawing attention to the fact if a superior authority fails to perform its statutory functions, and of preserving local amenities and privileges. Here is a specimen agenda of the Annual Assembly of a Parish Meeting convened on 21st March, 1947, at 8.15 p.m.:

Read and confirm the minutes of the last Annual Meeting.

Submit to the Meeting the Financial Statement for the year 1945-46.

Submit Statement of Charities.

Any other business.

The notice convening the meeting in this case was signed by the Chairman of the Parish Council.

With the consent of the Parish Meeting the Parish Council may levy a rate of 8d. in the pound; without the consent of the Meeting the maximum rate a Parish Council may levy is 4d. by the Act of 1929. To obtain the money the Council issues a precept on the County Council. While a Parish Council is only compelled to administer parochial charities and elect representatives to the rating authorities it may also provide land and buildings for public meetings and offices, maintain footpaths and rights of way, and accept gifts of property on behalf of the parish.

In Scotland the most important authorities are the *County Councils* each under a Convener (chairman) elected annually, and the *Councils of the Burghs*, each under a Lord Provost or Provost whose term of office is three years. Four of the largest of these—Edinburgh, Glasgow, Dundee and Aberdeen —are each a "County of a City," and analogous to the English County Borough. The Lord Provost of each is by virtue of his office entitled to be appointed Lord Lieutenant. Of the Burghs there are three types: the Royal Burgh incorporated by Royal Charter, the Parliamentary Burgh and the Police Burgh. Glasgow, for example, is a Royal Burgh a Parliamentary Burgh and a Police Burgh. Dunbar is a Royal Burgh and a Police Burgh. Peterhead is a Parliamentary Burgh and a Police Burgh, but Dalkeith is only a Police Burgh. There are also elective *District* and *Parish* Councils, each under a Chairman.

II.—THE COUNCIL OFFICES AND OFFICERS OF THE COUNCIL

In every area the centre of civic administration is either the County Offices in the County Town or the principal town of the administrative county where the geographical county has been sub-divided, or the Council Offices in County Boroughs, in Boroughs and Urban and Rural Districts. Here are the headquarters of the principal local government officers, who are salaried officials appointed by and dismissible by the

council, subject in certain cases to the approval of the appropriate Minister of the Central Government in London. The salaried officials and their office staffs stand in much the same relation to their council as the Civil Service does to the Central Government. But there is a difference to be noticed between the heads of the Civil Service departments and the heads of departments in local government: the former are administrators simply, the latter are professionally qualified men in law, medicine, engineering, surveying and so on.

Principal Officers

The first of the principal officers to notice is the *Clerk of the Council.* Every unit of local government, including Parishes, is required by statute to appoint a Clerk who holds office during the pleasure of the council. Though qualifications for the office are not by statute defined every authority, except the Parish, necessarily appoints a member of the legal profession, barrister or solicitor, because the office of the Clerk of the County Council, of the Urban or Rural District, and the *Town Clerk* of the County Borough or Borough is the council's legal department; it is also the principal secretarial office. All this tends to make the Clerk's position that of co-ordinator and administrator. As the legal adviser to the council and its departments, and as secretary to the council at its meetings and medium of communication with the council he occupies a central position. The compiling of agenda, and the taking of minutes and their distribution to Committees and Departments is part of the work of his office. The Clerk's department also includes the offices dealing with the Electoral Register, and, often, the Local Land Charges Register which shows how any property is affected by road or other improvement or planning schemes under the control of the local authority. (In some places now these matters are dealt with by a separate Planning Office). Finally we must notice that the Clerk is by law the custodian of the council's documents, records, deeds and charters.

The Treasurer, or Comptroller of the Council as he is styled by the London County Council, is the head of the

Finance Department, and so is responsible for all matters relating to revenue, expenditure and accountancy. It is part of his job to serve as financial adviser to all the council committees pointing out to them the financial effect of their proposals, and to advise the council as a whole as to the total commitments of their general programme. Since local government revenue is derived in part from the levy of rates upon the owners or occupiers of land and buildings within the area the Rates Department is directly under the supervision of this officer; as also is the Valuation Department whose work is connected with the assessment of the indivdual ratepayers. The Treasurer or Finance Officer, as he is sometimes designated, has been held by the Courts of Law to bear responsibility to the burgesses as a whole, so that if he authorise an unlawful payment, even on the orders of the council, he may be punished. He cannot plead the orders of the council, even though the council may dismiss him if he disobey them. He is more than a servant of the council; he is to some extent a check on it. It is interesting to notice that the office of Clerk of the Council, County, Borough or Urban District, and the office of Treasurer may not be held by the same person; the combination of offices being forbidden by law, at the time that the appointment of a Treasurer was made obligatory, in the case of urban authorities in 1875, and boroughs in 1882, and on county authorities in 1888. Many of the smaller authorities still do not employ a special finance officer but arrange for their Clerk—or even the local bank—to perform the essential part of his accounting duties.

The Police

The country under the ancient Saxon system was divided into hundreds which were sub-divided into tithings. Every division was held responsible to its superior division for the efficiency of its police arrangements. The system was supplemented by the institution of Sheriffs, deputies and a parish constabulary. This arrangement lasted until Sir Robert Peel introduced the modern metropolitan police system which all counties were compelled by law to adopt in 1856 in England

and Wales, and in 1857 in Scotland. Now the Police authorities are the Counties, County Boroughs and certain Boroughs responsible in England and Wales to the Home Office, and in Scotland to the Scottish Office. The principal officer in each police area is the *Chief Constable* who is appointed by the Standing Joint Committee of the County or by the Watch Committee of County Boroughs and Boroughs, subject to the approval of the Home Secretary who alone can remove him from his post. This officer, assisted by a Deputy Chief Constable, controls a force organised on a quasi-military model consisting of two branches, the uniformed engaged on normal patrols and traffic regulation, and the detective engaged on the investigation of special cases. The whole is subject to a particular code of police discipline. Every police area is sub-divided into divisional areas, each under a Superintendent. The stations within the divisional areas are usually in charge of Inspectors.

The powers of the police are wide as their duties are various; but they are all directed to one end, the preservation of the "King's Peace and dignity." To ensure the public safety the police have the power of arrest not only for an actual breach of the law but also when there is good reason to believe that a breach of the peace is about to take place. Moreover an action for damages against a police officer will not succeed even if his reasons for detention prove ill-founded provided he acted in good faith. A police officer also has certain powers of search and apprehension when provided with a Warrant expressly for the purpose. In the performance of their duty to maintain public order and prevent the destruction of life and property the force is concerned not only with the law of the land as enacted by Parliament but also with the enforcement of regulations made by Ministers of the Crown under statutory authority as well as the observance of bye-laws made by the local government authority. But in the performance of these duties it is contrary to the principles underlying the administration of justice in this country for a member of a police force to assume the rôle of an agent provocateur.

General responsibility for the efficiency of a police force rests with the Watch Committee or the Standing Joint Committee of the local authority bearing the cost of the force. A considerable part of this cost, approximating to one-half, however, is reimbursed as a Government grant by the Home Office subject to satisfactory reports being received from the Inspectors of Constabulary. In this way the Home Office is enabled to set and demand a certain standard of efficiency in every police force.

In 1920 women were appointed for the first time to the regular police forces. There is also in being a reserve to the regular police in the Special Constabulary which may be called upon in emergencies.

The police arrangements for the London Area require a brief separate notice. Within the area there are two forces: the City of London Police and the Metropolitan Police. The former are administered by the Corporation of the City of London and serve within the ancient boundaries of the City, an area of rather more than a square mile. The force is organised by a *Commissioner* with an Assistant Commissioner, and totals just over a thousand strong. There is a reserve in the City of London Special Constabulary. The administration of the Metropolitan Police is vested in the Home Office, and the command of it entrusted to a Commissioner, usually an officer of high rank from one of the Services. Serving under him is a Deputy Commissioner, four Assistant Commissioners and six Chief Constables at the Headquarters in New Scotland Yard. The force is divided into four districts each under a Deputy Assistant Commissioner and a Chief Constable, and sub-divided into twenty-two divisions each under a Superintendent, and a Thames Division under a Chief Inspector. This division originated in a band of men raised by the West India Company of Merchantmen in 1798, with headquarters at Wapping, to prevent the looting of ships cargoes. These river police were incorporated in the Metropolitan Police Force in 1839. This force, too, has a reserve in the Metropolitan Special Constabulary; and it is responsible for policing the London County area.

PUBLIC HEALTH SERVICE

The *Medical Officer of Health* at the head of the Public Health Department must be appointed in accordance with statutory requirements by every authority except the Parish. He is charged with the duty of administering on behalf of the local authority the various health services made incumbent upon it by the several Acts of Parliament, e.g., the Public Health Acts, Infectious Diseases Acts, Housing and Sanitation, Factory and Workshop, and Shops Acts and so on. Naturally the responsibility of the Medical Officer varies with the type of local government area he serves. To indicate the scope of his department in a County Borough we cannot do better than quote the staff employed in a typical case:

A Senior Assistant Medical Officer for housing and general purposes;
Four District Assistant Medical Officers;
A lady Assistant Medical Officer for infant mortality;
A Chief Sanitary Inspector with District and Assistant Sanitary Inspectors for general purposes;
Food and Drugs Inspectors;
Milkshops and Dairies Inspectors;
Smoke Abatement Inspectors;
A Common Lodging-house Inspector and an Inspector of houses sub-let in lodgings and canal boats;
Inspectors for Shops' Acts;
A lady Inspector of Midwives;
A lady Superintendent of Health Visitors;
An Assistant Superintendent of Health Visitors;
About 25 Health Visitors;
Special Infant Visitors; and Tuberculosis Visitors;
A Housing Staff of Chief Inspector, Assistant Inspector, building inspectors, draughtsmen and clerks; clerks for statistical and general purposes.

The whole totals rather over one hundred and fifty.

The most important part of the work of the district assistant medical officers is the prevention, and the control, of the spread of infectious disease through the use of hospitals, sanatoria, and the provision of processes of disinfection and

so on. The work of the women health visitors is mainly educational, and consists in giving advice on matters of personal hygiene, cleanliness and sanitation in the home, the care of infants and children, and in dealing with verminous conditions. They are also able to supply information as to the use to make of charitable organisations in necessitous cases. The titles of the other officials is sufficient to explain their purpose.

This department may also be responsible for the organisation and supervision of work in connection with maternity and child welfare, with dispensaries and clinics supported by the public authority, and nurseries; and with the collection and disposal of house and trade refuse; with sewers and sewage disposal.

It is worth while looking at the list given above again because it reveals in broad outline how such a department is organised to carry out the duties assigned to it. First the department is divided into several separate inspectorates, e.g., Health, Sanitary, Food and Drugs, Lodging House, Factories and Workshops, Shops and so on. The Chief Inspector of each division is directly responsible to the Medical Officer of Health for the control and efficient working of the staff and organisation below him. The whole work of such a department as this depends on personal inspection carried out in factory, shop, lodging house and home; on the ability of the inspector making the inspection, and on his report, because any further departmental action will be based upon it. Next we notice the city area is divided into districts. For health purposes, for example, each district is placed in charge of a district assistant medical officer; and for sanitary purposes each district is under an inspector who supervises and directs the work of his assistant inspectors. So we have illustrated again our concept of the Pyramid of Control.

Education

The *Education Officer* is appointed to organise and supervise the discharge of the responsibilities laid upon the local education authority by the various Education Acts from

1870 onwards. County Councils and County Borough Councils are authorities for higher as well as for elementary education, while Urban District Councils are responsible for elementary education only; and then only if the population is in excess of 20,000. The tendency is to limit any increase in these Part III Authorities, as they are called, by the Education (Local Authorities) Act, 1931. So the extent of the authority and the duties of the Education Officer, or the Director of Education as he is often styled, varies according to the local government area he serves. But generally, he is the Council's adviser on all matters of educational policy and through his staff and inspectorate directs the provision, equipment and maintenance of buildings, and supervises the teaching staffs and their work in all grades of school under public authority: Grammar, Technical, Secondary, Day Continuation, Elementary and Special Schools for blind and mentally or physically defective children. The local authority also has power to provide scholarships and maintenance grants and the Education Officer, through his department, is responsible for their administration. His department in the larger urban areas often includes the Juvenile Employment Bureau and the office of the Youth Organiser. Day Nurseries and certain Remand Homes, for which the local authorities became responsible under the provisions of the Children and Young Persons Act, 1933, are staffed by the Education Office. It should be particularly noted that these Remand Homes are, however, subject to the regulations of the Home Office. In all areas the Education department also maintains close liaison with the Public Health Department.

Apart from the officials we have already discussed there are many more, some of whom must be appointed by local authorities to satisfy statutory requirements. For example, the 1875 Act required every rural authority to appoint an inspector of nuisances if the medical officer did not exercise the powers conferred on the inspector by the Act; and urban authorities were additionally required by the same Act to appoint a surveyor; and other obligatory appointments have to be made by subsequent Local Government Acts. More-

over, as we have already said the responsibility of the different types of local government area varies, and so there is some variation in the Council offices in each type of area. Neither is there complete uniformity as to the number of departments between local government authorities of the same type for they may, and do, make different distribution of the work involved within the limits permitted by statute. So there cannot be the same finality in a description of the local government officers at the head of departments as there can be in a description of the Civil Service. We shall see, however, with some precision what officials are required by each type of authority if we examine the table following which also indicates the powers and functions of each.

Department and Function.		*Type of Council.*				
		C.C.	C.B.	B.	U.D.	R.D.
Clerks Office:						
Clerk of the Council	Secretary	x	x	x	x	x
	Legal Adviser	x	x	x	x	x
	Election Register ...	x	x	x		
Town Clerk	Local Land Charges Register	x	x			
	Custody of Records, Deeds, Charters, &c.	x	x	x	x	x
Finance:						
Treasurer Finance Officer	Financial Adviser, Revenue, Expenditure, Accountancy	x	x	x	x	x
Police:						
Chief Constable	Uniformed Branch, Criminal Investigation Dept.	x	x	x		
	Explosive Dept. ...	x	x	x		
	Lost Property, &c. ...	x	x	x		
Public Health:						
Medical Officer of Health	Notifiable Diseases ...	x	x	x	x	x
	Hospitals, Sanatoria, Clinics, Nurseries	x	x			
	Maternity & Child Welfare	x	x			
	Sewers & Sewage Disposal	x	x	x	x	x
	Collection of house and trade refuse &c.	x	x	x	x	x

Department and Function.		*Type of Council.*				
		C.C.	C.B.	B.	U.D.	R.D.
Education:						
Director of Education	Technical & Higher	x	x			
	Elementary	x	x	x	x	
	School Kitchens & Meals	x	x	x	x	
	Youth & Young Farmers' Clubs	x	x			
Libraries & Museums; Librarian & Curator	... ...	x	x	x	x	
Public Works:						
Surveyor & Engineer	Roads, Highways, Bridges, Buildings, & Housing	x	x	x	x	x
Public Assistance:						
Relieving Officers	Institutions & Homes, Cottage Homes & Children's Homes	x	x			
	Poor Relief	x	x			
Deficiency Act:	Mental Hospitals ...	x	x	x		
	Treatment of the Mentally Deficient	x	x			
Agriculture:						
Agricultural Adviser	Allotments and Small Holdings		x	x		x
	Animal & Plant diseases Advisory Services	x	x			
Transport & Tramways:						
Manager	Municipal Transport Services		x	x		
Town & Country Planning:						
Planning Officer	Control of area development	x	x			
Housing & Estates:						
Manager	Council Houses & Estates	x	x	x	x	x

Department and Function.		*Type of Council.*				
		C.C.	C.B.	B.	U.D.	R.D.
Baths, Parks & Cemeteries:	Baths, Wash-houses & Bathing-places ...		x	x	x	
	Parks, Pleasure Grounds & Open spaces	x	x	x	x	x
	Cemeteries		x	x		
Water: Engineer	Local Water Supply	x	x	x	x	x
Gas:	Light, Heat & Power		x	x	x	x
Weights & Measures:		x	x	x		
Markets & Fairs:	... ...		x	x	x	x
Taxation:	Motor Licences, &c.	x	x	x		
Fire Brigade:	Now N.F.S. to be restored to authorities later.					

III.—THE COUNCIL

We have even now indicated only twenty possible offices: one County Borough certainly divides its administrative work between twenty-seven offices, and it may well be there is an authority with a higher number. These are organisations of considerable magnitude; indeed, together they employ about one million of the country's working population, and ten years ago they collected and expended in England, Wales and Scotland, in the course of a year, over £700 million pounds. It is remarkable, therefore, that the system for controlling activities so comprehensive, expenditure so large and personnel so numerous, should be, in broad outline, so simple.

(a) Qualification

Since the Local Government Acts, 1888 and 1894, completed the system every local government area has been under the supervision and control of an elective body—a Council—elected by citizens possessing qualifications now defined by the Representation of the People Act, 1945. To qualify a person must be 21 years of age or over, and an occupier of

land or premises as tenant or owner in the electoral area during the qualifying period, that is, the three months ending 1st June each year. The Act defines the word "tenant" as including any person occupying a room or rooms, let unfurnished, as a lodger. An employee occupying a dwelling-house not also occupied by his employer is also entitled to register as a "tenant." Such as the following are subject to legal incapacity and cannot vote: aliens, lunatics, bankrupts, persons convicted of corrupt practices, and felons who have not served their sentences. Neither can judges, sheriffs and election agents, by reason of their office.

(b) Councllors

Councillors for every type of local government area are elected to office for a term of three years; but whereas *County Councillors* retire together and there is an election held in March once in three years, *County Borough* and *Borough* and *District* Councillors retire one-third each year. So in County Boroughs and Boroughs there is an annual election in November; in Districts the annual election takes place in March. In the case of *Parish Councillors* not fewer than five nor more than fifteen are elected at every third annual assembly of the Parish *Meeting,* held in March. There are statutory qualifications for all these offices. The same procedure of nomination and secret ballot is followed as for Parliamentary elections, except in the case of Parish Councillors who are elected on a show of hands—but even here *any five local government electors can demand a poll* by secret ballot. The cost of such an election before the late war would be between £10 and £15; and generally it operates as a deterrent.

(c) Composition of Councils

Now a few words as to the composition of the Councils. A *County* Council is presided over by a Chairman who is elected by the Councillors from among the Aldermen or Councillors, or from "persons qualified to be such." That is

to say the Councillors may choose someone to be their chairman who is not necessarily an elected member of the Council. In *County Boroughs* and *Boroughs* the chairman of the Council is styled the Mayor (or Lord Mayor in those cities where the title has been conferred by the Crown). He is elected nominally to the office by the Council, but in practice a small sub-committee of the Council is usually appointed to select a member who takes office from the 9th November for the year ensuing. In the case of the City of London the Aldermen virtually succeed to the Civic Chair by seniority.[1]

The office of Alderman is of Saxon origin; it survives in County, County Borough and Borough Councils only. The Aldermen are elected by the Councillors from among their number for a term of six years, half of them retiring every three years. This "aldermanic" system of retirement ensures a certain continuity of government, and to some extent keeps within the council a body of men with a fuller experience of local government than that of the average councillor. But apart from their term of office there is no difference between the position of the aldermen and the councillors. The proportion of Aldermen to Councillors is about one to three for each electoral division or ward. In the London County Council the proportion is about one to six.

In *Districts* and *Parishes* a Council consists of a Chairman and Councillors only, the latter electing their Chairman.

After election one of the first tasks of a Council is to resolve its members into a number of committees and sub-committees, corresponding more or less to the departments between which the administrative work of the authority is divided. We say more or less because there are a few committees which are not connected with any one department, e.g., the General Purposes Committee. Earlier we emphasised the importance of the "committee idea" (p. 4) in matters of management; here, in local government, we find it in full operation. The work of a council is done in committees. A County Council may form a dozen or more; and County

[1] But members of both the Court of Aldermen and the Court of Common Council must be Freemen of the City; and the Livery still has the sole right of electing both the Lord Mayor and the Sheriffs.

Boroughs often form upwards of twenty. The sub-committees formed to deal with specified parts of a committee's work may be very numerous. The Education Committee of one County has 18 sub-committees. More usually they may amount to half a dozen or so. It is probably the only way in which an elective, part-time body of laymen can hope to come to grips with the problems of local government. Many of the Councillors obviously may be appointed to more than one committee—it depends very much on the amount of time one can afford to devote to local government affairs. The departmental committee and the department are closely linked; first the chairman and the deputy chairman make it their business, indeed, it is their business, to establish good relations with the senior official and his chief assistant in the department; second the head of the department attends the meetings of the committee not only to present reports, plans and statistics as a senior official, but also to act as the professional consultant to the committee. In the nature of things few councillors serving on a committee can have more than a layman's knowledge of the work of the department they are supervising, directing and controlling, though some attempt is made to distribute committee members with reference to their qualifications and interests. Hence considerable reliance must be placed on the departmental head. To help to supply any want of special knowledge and experience there exists the power of co-option—in some cases it is obligatory —by which non-elected persons may be made members of committees. It is a useful device, though it is open to abuse because it may be used to adjust the political balance of a committee in a way not justified by the electoral vote.

(d) Committee Meetings

The meetings of these committees take place as often as their business requires, and the convenience of members allows. That is not to say there are not regular times for meeting. There are in most cases, though there may be special meetings. The meetings are usually held in private, but the Press may be admitted. Though ultimate authority and

responsibility is vested in the Council itself some of the committees are required by statute, e.g., The Borough Watch Committee (Municipal Corporations Act, 1835) and the Standing Joint Committee of County Councillors and Magistrates (Local Government Act, 1888) to supervise Police administration in Borough and County. The Education, Public Health and Housing (in Counties) and Public Assistance Committees (in Counties and County Boroughs) are also Statutory Committees. But by its own free decision the Council may appoint others as it thinks necessary, decide the extent of delegation, the composition of a committee and whether it shall be standing or special. The larger authorities, such as Counties and County Boroughs, usually delegate substantial authority to their committees; though no committee may levy a rate or raise a loan some are given authority to make contracts. It is important to realise that the powers of these committees vary considerably; some need only report to the full council after action has been taken, others have to report for approval. Again we must notice that in some matters *councils* are forbidden by law to act until they have received and considered the report of the appropriate committee, e.g., in matters of Public Health and Housing, Public Assistance, Education, Rating and so on. Oddly enough, with the exception of County Councils and Metropolitan Boroughs there is no statutory obligation laid on Councils to appoint a Finance Committee and yet this is the one committee, which, with the help of the Finance Officer, is in a position to co-ordinate the work of all the other committees, giving financial proportion to their projects and undertakings. Needless to say Finance Committees are universally set up by Councils and usually consist of the Mayor or Chairman of the Council and all the chairmen of the committees.

To appreciate fully the value of the application of the "committee idea" to the work of the elective councils the range of their administrative functions and the frequency of the council meetings must be taken into account. A County Council, for example, is, within its area, the principal authority for Police; Highways; Public Assistance; Education,

higher and elementary; Health Services, especially sanatoria for tuberculosis, maternity and child welfare and mental hospitals; Agricultural Advisory Services; Town and Country Planning; and many other services, varying from county to county as they make use of their permissive powers. We have not space to enumerate them all here. So when we recall the agenda of a full Council meeting may amount to two hundred printed pages ranging over matters relating to all the numerous departments and committees under their control it must be obvious that only those items on the agenda can be discussed in any detail (probably it will be not more than one) which have some special significance; for the rest reliance must be placed on the recommendations of the committees.

There are only four statutory meetings for County Councils in a year, held in March, June, September and December. The London County Council, however, meets fortnightly on Tuesdays at 2.30 p.m. in the County Hall, Westminster. County Borough Councils also meet fortnightly in the afternoon or evening. Borough and District Councils meet monthly. A Parish Council has to meet, in compliance with statute, only once a year on the 14th April or during the fourteen days *after;* but in fact it meets, usually during the evening, on such other occasions as business may require, and that may sometimes be as often as four or six times in the year.

There is a general, though erroneous, impression abroad that the powers of a Parish Council are very limited; in fact they are very varied. Its duties, for instance, include: the provision, management and maintenance of allotments, gardens, village halls and playing fields and recreation grounds; public libraries, baths and wash-houses, burial grounds, offices, rights of way, water supply and lighting and sewerage services; the acquisition, acceptance, administration and disposal of gifts of land and so on; the appointment of trustees of parochial charities, and the joint appointment of school managers; the issue of precepts for parochial expenses. Expense is the greatest handicap experienced by every Parish

Council; but every Parish Council has the right of making representations to the District and County Councils with a view to necessary local services being provided.

As a matter of interest we quote below the agenda of a typical Parish Council meeting, held at 7.30 in the evening in the school-room:

Read and confirm the minutes of the last meeting.
Correspondence.
Accounts.
Water Supply.
Rights of way and boundaries.
Housing sites.
Any other business.

Notice of a meeting must be given three clear days before it takes place, and it may be convened by the Chairman of the Parish Council or by two Councillors. It is open to the public unless the chairman otherwise directs.

By a circular letter sent out early in 1947 Parish Councils were informed that in future they would be under the authority of the Secretary of State for Home Affairs in place of the Minister of Health.

We may add that in contrast to the Clerks to other types of local authority no special qualifications are demanded of the Clerk to the Parish Council, and his salary is usually only nominal though he often devotes quite considerable time to his work. A Devonshire village, as a case in point, recently sought a clerk to call parish meetings, take minutes, collect rates and car-park fees (retaining two pence out of every sixpenny parking fee) at a salary of £5 per annum.

The Council Meeting

We have already said that most Council Meetings take place either in the afternoon or evening; and in general they are open to the public and the Press. Indeed the admission of the latter is regulated by the Local Authorities (Admission of the Press to Meetings) Act, 1908. Now, although the public is frequently enjoined, quite rightly, to show its in-

terest in the conduct of local affairs by attending meetings of the Council, it is well for us to recollect and realise that what we witness from the Public Gallery of the Council Chamber represents but a very small part of the work of local government, and that the most formal part of it. Copies of the agenda and the reports of the various committees are printed and circulated among the Council members before the date of the meeting by the Clerk's Office. The meeting itself is presided over by the Mayor or Chairman of the Council and follows the usual course of any other kind of meeting. The first item of business is to read, confirm and sign the minutes of the previous meeting. That done the Council will proceed to any particular business and to receive and consider the reports of its various committees. Each of these is presented by the chairman of the committee concerned; and to assist the Council in its deliberations the principal departmental officers attend in an advisory capacity, each answering such questions and providing such additional information as may be required of him in the discussion of the report relating to his own department. Not all the reports by any means are discussed at any great length, time alone would not permit it; but all are, according to the majority vote of the Council, either approved and adopted, or amended or referred back to the committee. At these meetings appointments are made to fill vacancies on committees as they occur from time to time, and the recommendations of committees with regard to the appointment of the principal officers of the permanent staff are also brought before the Council for confirmation. All this business is conducted in accordance with the Standing Orders of the Council so the risk is the proceedings may appear to the on-looker formally dull, except for those moments when some pet idiosyncrasy of a councillor is in danger. We may then expect a few brief exhanges. But there is nothing in the form of the proceedings beyond the capacity of the average person; though a proper understanding of some of the reports may require technical or specialised knowledge—but there the average citizen stands on an equality with the average councillor.

IV.—RATES AND RATING ASSESSMENT.

We have several times already pointed out that governmental control cannot be exercised and services provided without funds. Money is just as essential for the purposes of local government as it is for those of central government. We must, however, be careful to distinguish between the levies made by the Central Government and those made by the local authorities. The former are *taxes,* and the latter are *rates*. A rate has been defined as a sum levied by the public authority *for local purposes*. Both taxes and rates are levied in accordance with authority conferred by law, and both are levied in accordance with the presumed ability of the individual citizen to pay: though the method of assessing the citizen's ability is different in each case.

(a) The Earliest Rate

The earliest rate on record was levied under the Poor Relief Act, 1601; and for many years the Poor Rate remained the only rate. This Act was amended in 1874. But the reorganisation of local affairs really began with the passing of the Municipal Reform Act, in 1835. From that time onwards a succession of enactments have resulted in the setting up of numerous municipal and local enterprises which are now part of our national life. As separate rates were levied for each of these the procedure became complicated and haotic. To remedy this so far as London was concerned the aluation (Metropolis) Act, 1869, was passed; the Metroolitan Boroughs, among other things, taking the place of he parishes as rating authorities. Later the rating laws for the rest of England were brought into line with London, and finally consolidated under the Rating and Valuation Act, 1925, which ended a complex system of rating and collection; the Overseers of the Poor ceasing to exist as a rate levying and collecting authority. Instead the rating authorities now are the County Borough Councils, Borough Councils and the Urban and Rural District Councils (p. 132). The County Councils and Parish Councils are precepting authorities; the former issuing demands to meet their expenses to

the Urban and Rural District Councils as rating authorities, and the latter recover their expenses from the Rural District. The result of this consolidation produced for almost all local government purposes one *General Rate,* though there are a few rates still outside the general system. In rural areas there may be, in adition to the General Rate, a *Special Rate,* e.g., for lighting.

(b) ASSESSMENT COMMITTEES

This Act of 1925, moreover, set up the County Boroughs as self-contained assessment areas with their own Assessment Committees. The Assessment Committees are appointed by the Borough Councils and may consist of any number of persons decided by the Council, but the Act requires that not less than one-third of them shall be persons not holding elective Council seats. All members of an Assessment Committee hold office for a term of five years, even though they cease in that time to be councillors. In Counties the arrangement is rather different. The County Councils in consultation with all the rating authorities in their areas have had to submit schemes for assessment areas to the Minister of Health for approval—you will recall the Ministry of Health took over the duties of the old Local Government Board (p. 31). Each of the assessment areas within a County must consist of at least one complete rating area; a County may itself constitute one complete assessment area. Here the Assessment Committees consist of persons appointed by the County Council and the rating authorities in the assessment area.

The work of an Assessment Committee consists in supervising the drawing up of the valuation lists and in revising them in accordance with the Act at least once every five years. The actual work of valuation of the fixed, or immovable, property in a rating area is carried out for the rating authority by a duly qualified and licensed valuer employed by or commissioned by the authority for the purpose. To ensure as far as possible uniformity of valuation, and to assist the rating authorities with regard to it, County Councils are required

to set up a County Valuation Committee consisting of members of the County Council and a representative from each of the assessment areas.

(c) The Central Valuation Committee

Finally there is the Central Valuation Committee consisting of members nominated by the Minister of Health and the Associations of Local Authorities from the various County Valuation Committees, assessment committees and rating authorities. Its function is advisory: to keep the Minister of Health informed as to the operation of the Rating and Valuation Act; and to promote uniformity of application of the principles of valuation among the local authorities. That, briefly, is the machinery devised to ensure that the net annual value of fixed property is fairly estimated.

We have already said that rates are levied in accordance with the presumed ability of the citizen to pay; and for rating purposes ability to pay is estimated by the value of the lands and buildings occupied, and by other fixed property held in the rating area. To be a little more technical one is *assessed on the net annual value* of the premises one occupies and on certain "classes of machinery and plant deemed to be part of the hereditament." We cannot discuss the problems involved in valuation here but in general terms we may say that the net annual value is found by making certain deductions, as for repairs and other items of maintenance and insurance, from the gross annual value, which of course is based on the annual rent at which the property is let, or on the annual rent it is estimated to be worth if let. The formula for the ascertainment of the net annual value of fixed, or immovable property is determined by the Rating and Valuation Act, 1925. If, however, a ratepayer thinks that the value of his property has been over-estimated, or not fairly estimated in relation to similar property in the area, he has the right of appeal against the assessment before an appeal committee and at quarter sessions. In most cases the net annual value is the *Rateable Value,* but for some hereditaments, e.g., those used for industrial purposes, or by goods transport under-

takings, a further deduction is made from the net annual value to produce the Rateable Value. In the case of industrial hereditaments Section 24, the Rating and Valuation Act, 1925, defines what machinery is to be taken into account and what machinery ignored for rating purposes. In general terms all machinery used for power, light and heat, railways and their tracks within the works, and passenger lifts are rateable in full; manually operated tools are exempt; and certain other machinery is rated at a quarter of its value.

In 1928 the Rating and Valuation (Apportionment) Act provided that certain types of property should be distinguished from each other and from all other types of property in the valuation lists as (i) agricultural hereditaments, (ii) industrial hereditaments, and (iii) freight-transport hereditaments, with a view to affording these properties special relief in the matter of rating. This relief is usually referred to as "derating." Agricultural land is totally exempt from liability to pay rates—but this exemption does not apply to the farmhouse whether occupied by the owner or by the tenant. Industrial and freight-transport hereditaments are each rated at one-quarter of their net annual value. But "derating" is in many respects a delusive term. Because the expenditure of the rating area is not diminished by a sum equivalent to that lost by "derating" the burden is borne either by non-"derated" hereditaments, or by increasing the Rateable Value of the "derated" hereditaments or portions of them, or by an increase of the General Rate for the whole of the rating area. This is a matter not to be overlooked. Certain properties are exempt altogether. Such properties include those occupied by the Crown, or by servants of the Crown (but not their private residences), the dwelling houses of ambassadors, places of public worship, premises occupied by literary, scientific or artistic societies, and lighthouses under the control of Trinity House.

We must now emphasise that normally the liability to pay rates rests on the occupier of the property, whether he is the owner of it or simply the tenant. The principal exception to this is provided by small house and shop property the rents

of which are collected weekly; though the same may apply to any property if the rent is collected oftener than once a quarter. The general idea is that in such cases the rating authority may rate the owner, allowing him a percentage discount for collection; the discount varies according to the type of agreement the landlord enters into with the authority. This system is known as *compounding*.

Rates in some areas are collected quarterly; in others half-yearly—one quarter in arrear and one quarter in advance. Anyone refusing to pay his rates may be served with a "distress warrant" issued at the instance of the clerk of the rating authority so that the goods of the defaulting ratepayer may be seized. If the value of the goods seized is not sufficient to cover the debt the defaulter may be imprisoned on a magistrate's warrant for a period not exceeding three months —unless he can show that his inability to pay is due to circumstances beyond his control. If a ratepayer believes a distraint to be illegal he may appeal to quarter sessions or ask the magistrate to state a case for the opinion of the High Court.

(d) The Rates

The expenses of local government administration and services are met in part only by the local levy—the rates. The balance is provided by grants-in-aid paid to the local authority from the Exchequer under the Local Government Act, 1929; by fees, tolls, rents and other receipts—e.g., fees of fee-paying grammar school scholars, market tolls and dues, rents from housing estates, and the profits from municipal trading services, such as lighting, transport and so on. In the year 1940-41, for example, in England and Wales nearly £204 million was raised by the Rates towards an expenditure of about £693 million, while the Exchequer contributed approximately £226 million; the balance, rather more than one-third of the total expenditure, being accounted for by "fees, tolls, rents and other receipts" including trading profits and loans expended. The importance of the high proportion contributed by the Exchequer towards local government expenditure

will be apparent when we discuss the links between local and central government.

The computation of the rate is the work of the Treasurer's office. We cannot discuss it here in detail, but in general terms the Treasurer obtains from all departments the estimated expenditure of each as sanctioned by the Council and apportions the estimates in terms of so many shillings and pence in the £ (pound) of the Rateable Value of the rating area. By deducting the various grants, receipts and credits from the total expenditure he obtains the *net total of the general rate*. A careful scrutiny of the copy of a "Demand Note for Rates" facing will help to make clear any matters in doubt.

DEMAND NOTE FOR RATES

Mr. —. —. ————, or Occupier,

————,

————.

The Rural District Council of XYZ demand payment of a General Rate at Six Shillings and Fivepence in the Pound, together with Additional Items and less Allowances off in certain Parishes as shown on the back hereof, made in respect of the financial half year ending on the 31st day of March, 1947, and of the arrears (if any) of former rates, now due from you as below.

Number in Rate Book	Descripton of Hereditament & Situation	Net Annual Value (where it differs from Rateable Value)	Rateable Value	Amount of Rates
		£ s. d.	£	£ s. d.

Arrears (if any) of former Rates .....

TOTAL .....

The above RATES are NOW DUE and should be PAID within SEVEN DAYS at The Council Offices, ———— ————, XYZ.
For Statement of Rate Services see reverse side hereof.

By order of the Council,

—. ———— ————,

Accountant.

RATE

The following statement shows how the rate in the pound demanded i
meet the net expenses of each of the principal services, after allowing fo
but without allocation to particular services of the Government grants unde
of 1929, being in aid of local government expenses generally, cannot be
total rate which would otherwise be demanded.

GENERAL

	Items Common to Every Amount	£
Services administered by the Rural D.C.:—		
(a) *General Expenses*:		
*Housing	344	
Public Health	2,085	
Fire Brigade	284	
Other Services and Expenses	1,918	
	4,631	
Deduct in respect of decrease in working balance	250	4,381
(b) *Special Expenses payable out of General Rate*:		
Scavenging	2,171	
Sewerage	547	
Street Lighting	450	3,168
		7,549
Services administered by the County Council:—		
(a) *General County Purposes*:		
*Education	12,393	
Public Assistance	6,100	
*Highways and Bridges	5,806	
Public Health	2,745	
Visiting Committee of Central Hospital	230	
Mental Deficiency	1,129	
*Other Services and Expenses	2,451	
	30,854	
Deduct in respect of credits of the County Council (not being Government Grants)	1,763	29,091
(b) *Special County Purposes*:		
County Libraries	349	
*Police	2,754	
*Maternity and Child Welfare	1,377	
*Other Services and Expenses	316	4,792
		33,883
Services administered by Precepting Authorities other than the County Council, viz., ABC Area Assessment Committee		57
Deduct: The equivalent in terms of a rate in the £ of: The Exchequer Grants under Local Government Act, 1929, other than that under Section 92:—		
(a) Amount receivable by the Rural D.C.		647
(b) Amount receivable by the County Council		5,452
Sums receivable in aid of Parish Rate (Section 92 of Local Government Act, 1929)		47
NET TOTAL OF GENERAL RATE		

SERVICES

nmade up It sets out the rate in the pound which would be required to
specific Government grants towards the expenses of the services marked *
the Local Government Act, 1929. The Government grants under the Act
allocated to any particular service. They reduce by the amount shown the

RATE

Parish in the District.

Rate in the £.			Add			Deduct		
s. d.	s. d.	General Rate for District.	Additional Items for Parish Council Precept, and/or Debit Balances.	Parish Council Precept for Lighting Area.	Parish Council Precept for Burial Area.	Allowances for Parochial Income, and/or Credit Balance.	NET GENERAL RATE	
.74								
4.54								
.62								
4.18								
10.08								
.54								
	9.54							
4.735								
1.19								
.98								PARISH
	6.905							
	1—4.445							
—3.00								
—1.29								
—0.65								
5.98								
.50								
2.46								
5.34								
—7.22								
3.84		s. d.	d.	d.	d.	d.	s. d.	
	5—3.38		5				6 10	Abbey
						1	6 4	Debey
.75							6 6	Cebey
6.00								(Special
3.00								Lighting
.69		6 5						Area)
	10.44		1				6 6	Debey
			1				6 6	Febey
	6—1.82						6 5	Remainder of Rural District
	.125							
	7—6.39							
1.41								
11.88								
.10								
	1—1.39							
... ...	6—5.00							

V.—THE LINKS BETWEEN LOCAL AND CENTRAL GOVERNMENT

Local government authorities are not, and indeed, never have been completely autonomous bodies. In modern times they derive their authority from Parliament, to which they are ultimately, though by no means always directly, responsible. We have pointed out that the principle underlying local government is to "entrust special interests to those specially interested." But more and more at the present time there grows a tendency to push this principle into the background in favour of national uniformity in administration. So far did this tendency develop a few years ago (1942-3) that a very vocal section was found advocating a system of "Regional Government"; some not hesitating to suggest not only the overstepping and ignoring of traditional local government boundaries but also the abolition of local elective bodies in favour of centrally appointed administrators. Though for the moment quiescent the danger is not passed. There is much that may be said in support of uniformity of administration in certain departments of local government, e.g., Police; and something may be said for nationally equalising the burdens of certain services, though they may be in greater demand in some areas than in others, e.g., Poor Relief; but nothing at all can be said in favour of stamping out local traditions and customs, and ignoring the particular requirements and needs of local areas for the sake of simplifying administration. On the contrary, administration must be made, as far as possible, to fit the requirements and needs of the governed; and there is, in fact, no one better fitted to watch over the traditions, customs, and needs of a city, town, county or district than an elective body of resident persons, providing it consists in the main of diligent men, intelligent men, and honest men honestly elected. In accepting that, however, we must recognise the necessity of precautions to ensure purity of administration, and the attainment of minimum standards of efficiency in public protection, health and other essential services.

(a) State Departments

Now the State Departments are chiefly concerned to ensure those things. They are statutorily responsible to Parliament for so doing. How do they do it? Well, central control over local authorities is exercised in a variety of ways: through a system of inspection; by financial pressure; by direct action; by resort to the Courts of Law. Moreover, the appointment of certain local government officials, their qualifications and tenure of office, are subject to the approval of the State Departments concerned, which in most instances also provide advisory services, as well as making certain Rules and Orders—known as delegated legislation—to attain their purpose. We will begin by discussing the inspectorate with particular reference to local finance.

As *a system* inspection may be said to date back just over one hundred years to the Poor Law Report of 1834. Out of that report came the inspectorate for the administration of the Poor Law, which now consists of a Chief General Inspector (salary £1,600), fourteen General Inspectors (£850 to £1,200) and six Assistant General Inspectors (from £275). While the Chief General Inspector is at the Ministry of Health in Whitehall the other inspectors are allocated between the Poor Law Inspection Districts into which the whole country is divided, a General Inspector being in charge of each. The idea of setting up an inspectorate to watch over, guide and control a State system of education was first made effective about 1840, in consequence of an Order in Council made in June, 1839. Today the education inspectorate serving under a Senior Chief Inspector consists of ten Chief Inspectors at the moment, who, with the Senior Chief, control the whole system of inspection and the whole body of Divisional Inspectors, Staff Inspectors and Inspectors numbering probably about 400. Their salaries range from £2,200 at the head of the hierarchy to £600 at the base. The country is divided into ten divisions, at present, each under a Divisional Inspector who is responsible for organising the work of, and exercising control over the inspectorate in his division.

Police inspection was generally established in 1856 under

the County and Borough Police Act which provided that Inspectors of Constabulary be appointed by the Home Office. At present they number four at a salary of £1,650 each, and an Inspector of Police Training Centres at a salary of £850. Each Inscpector takes charge of one of the four districts into which the country is divided. This is probably the smallest of all the inspectorates today.

(b) The Inspectorate

There are also attached to the Home Office inspectorates for explosives, probation, the children's branch and so on; none of which are very numerous. But some of the other Ministries have considerable inspectorates, for example, the Ministry of Agriculture and Fisheries, the Ministry of Fuel and Power, the Ministry of Food, the Ministry of Labour and National Service. Besides the Divisional Engineers of the Ministry of Transport there are others we need not particularly notice here.

The basis of the system of inspection is the division of the whole country into districts or divisions, as they are variously styled, each of which is placed under an inspector directly responsible to his superior in Whitehall. This inspector in some cases must carry out the duties of inspection in person, in others he must organise and control the work of other inspectors placed under him, as for example, the H.M.I's. for Education who work under a Divisional Inspector. He it is who collects and scrutinises their reports, which are passed on to the Inspection Branch of the Department in London, and, in conference makes known and discusses how best to give effect to, the policy of the Central Authority. As occasion requires the Divisional Inspectors also meet in conference with the Senior Inspector in London. All this, of course, is in addition to the normal issue of instructions, regulations and codes and so forth, which emanate from the various Departments for the guidance of all concerned.

The chief functions of an inspectorate may be said to be: (i) to ensure the attainment of the minimum standard of efficiency warranting the payment of the grant-in-aid by the

central authority; (ii) to encourage and stimulate local authorities and their staffs to accept the best contemporary theory and practice in their particular departments; (iii) to survey the different methods employed by various authorities for comparative purposes with a view to reform and improvement; (iv) administrative mediation between the central and the local authorities.

His Majesty's Inspectors have been described as " the eyes and ears " of Whitehall. Their powers are wide; and although not every type anad grade of inspector has equal authority, they may at the instance of the Minister require reports to be made, hold enquiries, take evidence on oath, and require the attendance of witnesses and the production of documents. They have authority to demand admission to premises in the execution of their duties, and the production of books and records. In the case of the General Inspectors of the Ministry of Health in particular they may attend meetings of the local authorities; indeed they *must* attend at least one meeting of every authority in their respective areas in a year. They may take part in the proceedings as advisers and consultants but them may not vote (Poor Law Act, 1930).

Upon the reports of the inspectors to the Central Departments the payment of the various grants-in-aid to the local authorities largely depends. These grants, paid from the Central Exchequer, were originally made to enable localities to enjoy services beyond their own financial capacity. Grants in-aid were first made in an attempt to establish a national system of education in 1833; but it was not then that a centrally controlled secular educational system was contemplated. Experience soon showed, however, that conformity to regulations and discipline could not be maintained without some form of personal inspection. Now grants-in-aid are paid from the Central Exchequer in relation to so many services—Poor Law, Police, Public Health, Education, Highways and Bridges—and represent so high a proportion of local expenditure on them that, in conjunction with the inspection system, they are very formidable weapons in the armoury of central control. It is extremely doubtful if any local authority could

at the present time ignore the withholding of the grant-in-aid in respect of any particular service and continue to provide the service from its own resources. Such a test seemed likely to be made when a city recently decided to appoint its own Deputy Chief Constable, a reputedly excellent police officer, as Chief Constable in opposition to the wishes of the Home Secretary. The Council persisted until the Home Secretary threatened to withhold the police grant amounting to about £100,000. When it was pointed out that the grant represented a rate of 2/- in the £ the Council decided to make another appointment. So although it may be perfectly true to say that, originally, the grant was only made conditional upon efficiency, there can be no doubt now that it is used to impose a definite measure of control on the local authorities by the Central Government. Grants-in-aid, then, do represent a form of financial pressure, though it is not to be doubted that there are instances in which such pressure does ultimately advantage the local community. But at the same time it would be foolish to assume that all wisdom always resides with the central authority.

(c) LOANS

Local authorities are dependent, too, upon the loan to them of considerable sums of money for the provision of public works, such as sewerage and waterworks, highways and transport—tramways, harbours and docks, housing and meteries, baths and parks and the like. Indeed, local vernment loans outstanding in 1941 amounted to more than ,830 million for the British Isles, not including Northern land. Such loans can be raised only by authority of Parliaent conferred by a Private or Public Act, or with the consent of a State Department—in most cases it is the Ministry of Health—acting under Parliamentary authority. In this way also the Central Authority is able to exercise control to ensure that the financial condition of the local authority is such as to justify the loan, and to ensure that the works are suitably planned and of the requisite standard. The Ministry may at the same time sanction the loan subject to the im-

provement of other services supplied by the authority; thus using the application for a loan for one purpose as a lever to obtain improvement in some other direction. It may be in future that local authorities will be limited to borrowing through the Public Works Loan Board, an unpaid Commission under a Chairman and Vice-Chairman employing a salaried Secretary and Legal Adviser with headquarters in London. The Board was formed in 1817 for the express purpose of advancing money to local authorities for public works.

Contingent upon its consenting to a loan the Ministry may and sometimes has required an authority to accept audit by the District Auditors. The District Auditors are usually barristers or solicitors, who are additionally qualified as accountants or auditors, appointed under conditions laid down by the Civil Service Commissioners to the Audit Staff of the Ministry of Health. This staff works under a Chief Inspector of Audits and a Deputy Chief Inspector of Audits, and is graded into District Auditors, Deputy District Auditors, Senior and Junior Assistant District Auditors. The whole country is divided into districts for audit purposes, each in charge of a District Auditor assisted by one or more Senior and Junior Assistants and a clerical staff. The powers of the District Auditor are defined in the Public Health Act, 1875. Among other things it is his duty to disallow any payments made contrary to law, to surcharge the person making or authorising the illegal payment, to charge against any person accounting the amount of any loss or deficiency incurred by negligence or misconduct. The District Auditor is bound by law to give his reasons for making any disallowance or surcharge in writing if required to do so by any party aggrieved.

All County, Urban and Rural District, and Parish Councils are required by the Local Government Acts to have their accounts audited annually by the District Auditors; but this does not apply to County Boroughs, and Municipal Boroughs, except in respect of their Education, Housing and Public Assistance Accounts. Otherwise the audit of the accounts of Borough authorities is as provided for by the Municipal Corporations Act, 1882. That Act requires that there shall be

three Borough auditors, one annually by the mayor called the mayor's auditor, and two elected annually by the local government electors, called the elective auditors. Borough auditors have no power to surcharge.

So we complete our brief review of the system of inspection linked with financial control. It is, in fact, an almost complete system of personal inspection of personnel, property and accounts with the object of keeping the Central Government fully informed as to how far the local authority fulfils the obligations imposed upon it by law; and to what extent it implements the policy of the central authority; and behind it all is the threat of financial sanctions against the recalcitrant or defaulting local body. But in the main it must be recognised that the inspection system relies for its effect rather on persuasion, advice, guidance and co-operation, than on threats and punitive measures.

However, from time to time local authorities have been known to refuse compliance with the will of the central government, either in the matter of accepting its instructions or in providing a service. What, then, can the central authority do? Well, in matters of default the Public Health Act, 1875, empowered the Local Government Board, as it then was, and the Ministry of Health which has taken over he duties of the Board, to fulfil the neglected service or bligation by appointing a person or persons who may assume ie full power of the local authority for the purpose—though ney may not levy a rate. The Ministry may then make an Order requiring the defaulting authority to pay the expenses and reasonable remuneration of the persons appointed. Such an Order is enforceable in the Courts of Law. Alternatively the Ministry may go to the High Court seeking a writ to compel the local authority to fulfil its obligations. If the Court accedes it issues a writ *mandamus*, that is, a command to the local authority to execute its statutory authority. Failure to comply with that writ is contempt of court for which the defaulting body of persons may be committed to prison.

Since the passing of the Public Health Act, 1936, the procedure has been improved. The County Council has had its

authority as a supervising body over non-county borough and district councils increased, while it can also render them financial assistance. So now if an authority fails in its duty in matters of health the County Council may complain to the Minister of Health who must then order the holding of a local inquiry; the Minister may then call on the defaulting authority to provide the service within a stated time, after which the service is transferred to, and provided by, the County Council. It is not unusual now for the smaller authorities to ask the County to provide services which are beyond their own capacity.

What we have here outlined every newly-elected councillor eventually discovers for himself—that the local council is not a law unto itself; it is subordinate to the Central Government; and the Central Government has the ways, the means and the power to make the local body exercise its proper functions. But neither must we overlook that it is the bounden duty of the Central Authority to render service to local bodies by tendering advice, and by guidance, in the light of experience wider and more varied than that of localities can possibly be.

It is well that there should be strong links between local government bodies and the Central Government so long as those links are not forged as fetters and bonds, knitted up into ornamental festoons.

PART III.

THE LOGICAL BASES OF LIFE

AN INTRODUCTION

As soon as two or three are gathered together to form the beginnings of a community questions, difficulties and doubts arise out of the conflict of human desires and emotions. Such desires and emotions are dynamic; they can be an explosive disintegrating force, or they can be harnessed to motivate the community. The rivalries, the ambitions, the lusts, the envies, and the pride and covetousness of men have to be regulated and brought under control so that if they bring no positive advantage to the community they can do it no great harm. No matter how complicated in form these elements in the human make-up may become as the community grows, in substance they remain unchanged. They lie at the root of all our problems of living together. Such may be called the problems of the passions. Now in applying our minds to the problems of living together we must grant that every human being is an individual possessing equal rights with, and having reciprocal duties towards, the rest; each of whom has an equal right with the others to live his life in his own way, and an unalienable right to enjoy the fruits of his labour, so long as in so doing he does not deny the same rights to others. Whoever denies this invalidates his own claims. But the very statement of these claims for the individual person implies that they are rights to be exercised with restraint; that some regard must be had for the effect of one's actions, and even for the influence of one's thoughts on others, members of the community. So although men living in a community may be completely free they may not be irresponsible. Consequently one of the major problems of corporate life is to ensure the compatibility of individual freedom with the security of the entire community. It is impossible to do this without discipline—discipline self-imposed by the individual, and discipline imposed by the community through force of public opinion and supported by actual physical force, if that

should be necessary. In the earlier part of our work we have already considered the form this latter kind of community discipline takes; we shall presently proceed to discuss the methods used to inculcate a sense of self-discipline in the individual.

No community is concerned alone with the problem of the passions. All are confronted with problems of subsistence. On the one hand they must surmount the natural difficulties imposed by conditions of climate and soil, while on the other hand they must withstand the pressure of rival communities. All are concerned with the problem of preservation collectively, just as the person is concerned with his individually. Here in the mention of *preservation* we have the key to all human activity. The idea of preservation, self-preservation of the individual and preservation of the community, is the ultimate driving force motivating all human activity; indeed, it is nothing less than the Urge to Live and the Struggle to Survive which dominates, drives and compels all created things. In the natural order of things the struggle to survive is utterly ruthless, the weaker is killed and devoured by the stronger or left to die and decay to enrich the earth. Of all created things Man alone seems to have made any attempt to alleviate the bitterness of the struggle. There are some who think Man has had but little success so far; but, at least, it must be granted he has had some success. This, it would seem, must be ascribed to the fact that, while the struggle to survive remains the central driving force in his existence, he has tried to keep it in control building up his life round it on what we here call the Logical Bases of Life: Work, Religion, Education and Politics. He has continually applied his mind to the conditions bearing on and controlling his means of supporting life, endeavouring to make his labours less arduous, and his life fuller and more satisfying. He has never ceased to seek to know more of the world in which he lives and the universe of which it is part; to speculate on the great mysteries of life and death. He has devised systems to pass on the accumulated wisdom of ages; and systems for living a corporate life. It is to the

discussion of these Bases of Life that we now turn, tracing them, so far as we are able, from their simple origins to their complex forms in modern organised society; and it will be well for us to keep in mind during the discussion that there may well be a legitimate difference of opinions, for it is quite reasonable to suppose there may be more than one solution to any of the problems we review, and all equally valid.

I.—WORK

(i) The Root of Economics

Under this comprehensive title we shall discuss a variety of matters, ranging from the simple economics of a primitive community to the high finance and pawnbroking of modern nations. We might have chosen Political Economy as the title, or just Economics. But since *Work* lies at the root of all economics it seems a good idea to keep the fact before us by using it as our title; so let us first obtain some clear ideas about it.

(a) Work

Well then—Work, what is it? Why do we worry about it? Work has been defined as the expenditure of energy; the application of effort to some purpose. In that sense it may be regarded as part of Nature's Life Principle whereby life is sustained that it may bring into existence new life to preserve the continuity of life. To the question "Why?" no satisfactory answer has yet been given. Nobody appears to *know*. Belief is another matter; a personal matter. What life is has not yet been discovered, though we know many things about it. But what life is, and why it is, are not really material to this discussion; it is sufficient that we can recognise it, and that we know certain things are essential if life is to be sustained. Indeed there is much wisdom in Ruskin's view, "There is no Wealth but Life." The Essentials of Life for the whole animal kingdom are food to nourish the body, shelter from the elements, and warmth to maintain the spark of life itself. For Man in particular we may say,

in general terms, that his essential needs are food, shelter, clothing, and the use of tools and fire to produce these things. That will serve as a statement of broad and basic economic fact; but we must keep in mind that a man's needs vary with his condition. For all the first need is food. The primitive nomadic hunter divides his time between making his weapons and using them to win his meat; his clothing and shelter are of the slightest and crudest. The agriculturalist needs, in addition to his weapons, implements to cultivate the soil, to reap his crops, and vessels to garner the grain. His settled habit permits him to give a more permanent character to his shelter; and, because he has not to carry them about with him, his personal possessions increase in number and variety. But the so-called "civilised" man, the *civis*, is not satisfied with filling these simple wants; he desires to add amenity to life; he desires the things that make life pleasanter, more enjoyable; and it seems right that he should. So it is upon the procurement, the production and the making of all these things that Man lavishes his energy. It is for all these things that Man works.

(b) THE ARTS

Thus he lives, and thus he enjoys living: each in his own way. No two persons are *exactly* alike in temperament. We are not all happy in the same circumstances; neither do we all enjoy the same forms and things; nor do we all find pleasure in the same pursuits. The enjoyment of living is an intensely personal and individual matter; but it is none the less not an unimportant matter. Save for exceptional times and conditions the natural increase of the fruits of the earth and of the beast of the field is such that Man need not devote the whole of his time to the one purpose of supporting life. Indeed so long as he places this part of his work first, and gives a sufficient proportion of time and effort to it, that is enough. Not until he has time to stand and stare does Man begin to develop his higher faculties. Looking back through archæology and anthopology we find significantly enough that even primitive man devoted time to the decoration of his weapons

and utensils, not to add to their efficiency in use but to add to the satisfaction of the possessor. We know, of course, that some of this ornamentation had a special significance, or acquired it later; but the important thing for us to notice is that Man then found time not only to live but also to do things he found pleasure in doing. He always has. We realise this well enough if we stand and gaze in a great Gothic cathedral. Out of leisure came the Arts. We make this point with some deliberation because it ought to be remembered that no man's life is, or ought to be, wholly a matter of struggling for sustentation. Due time must be given to the things of the mind and the spirit if those peculiarly human qualities are to be developed which are so essential to harmonious life in organised communities. "Six days shalt thou labour. . . "

(c) The Measure of Labour

But let us return to this matter of work. To obtain the things he needs to sustain life and to enjoy living a man must till the soil, sow the seed, fell and hew the timber, bake the bricks, spin the yarn and weave the cloth, and, in this latest age, he must scoop minerals and metals and a large part of his fuel from the bowels of the earth. Nothing is of use or has any value for the puposes of man until it has been won from the earth, and has been adapted, converted, fashioned and brought into a usable form by the sweat of his brow, applied with a skill that comes from dexterity of the hand and sureness of the eye, aided by the cunning conceived in his brain; to which he must add a space of his life—time. These three factors, somatic energy, skill, and time, together are the measure of *labour* expended in the performance of any of life's tasks. It is this expenditure of labour that gives to any and every object its worth in human economy. Now just a simple illustration. A lump of iron ore lying in the ground has no value, it is worth nothing—neglecting "potential" value—until a man has dug it up, another cast it into the furnace, and another made a mould, and yet others have done all the things that have to be done to make of that lump

of ore a finished ploughshare, or simple spade, or cooking pot. That expenditure of labour makes the lump of iron ore serviceable to men; it is the measure of the prime worth, the original value, of the ploughshare, the spade, or cooking pot, or any other product soever. Moreover this operation of labour on raw material (remembering that the finished product of the blast furnace is the raw material of the foundry) to produce things serviceable to, or esteemed by, men is the source of all wealth. *Wealth* is the consequence, and is represented by the product, of labour operating on raw material. Ruskin once wrote, "Wealth, therefore, is 'The possession of the valuable by the valiant'." But in truth the matter of possession alters not the economic event one jot. Whoever possesses whatsoever men have given of the sweat of their brows, and of their skill and time to produce, possesses something of worth—wealth. What Ruskin may have meant, and probably did mean we will not discuss here. So in creating wealth a man expends so much labour: that is the measure of its *cost. All "costs" are but measures of labour expended*: if we take the trouble to trace them back far enough. On such a simple basis as this the direct exchange, the barter, of goods and services would seem to be an easy matter. But there is much else to be considered. First the three factors, bodily energy, skill, time, which, we have said, are the measures of labour expended are themselves variables; not all men are of equal physical capacity, or of equal mental ability, hence the energy they expend, the skill they show, and the time they take to produce any given article or render a particular service will vary from man to man. One joiner may turn a chair leg in so long and make a very good job of it, another may through indolence, or lack of skill take very much longer to make a much inferior leg. What shall be the reward of each? In practice, though not very consciously, a very rough average of these three factors, energy, skill, time, is taken as a standard, and in modern language, we pay "the rate for the job." The very good workman gets rather less than he deserves, the very poor workman gets rather more than he deserves. We would not attempt to defend that as

just; though it may be as near just as we shall get in our economic dealings. Again if there be a surfeit of butter and a paucity of bread the dairymaid, worried that the butter may turn rancid, may offer the baker more than is her wont for her loaves, while the baker, not in this case perhaps a very moral man, knowing her need for bread and realizing her anxiety about the butter, may well demand and accept more butter than he should for his loaves. Briefly then, when the supply of a commodity is not enough to satisfy the desire for it its price (that is, exchange rate) tends to increase and contrariwise, when the commodity is in such abundant supply as to more than satisfy the demand for it its price tends to fall. Such is the Law of Supply and Demand of the economists. Thus we discover the difficulty of accurately estimating the expenditure of labour, and a reason for the apparent difference between the price paid for an article and its cost. But Ruskin shows the real connection between "cost," as we have defined it, and the law of supply and demand, and the *price* obtained for goods and services when he says, "The exchangeable value of a commodity is that of the labour required to produce it multiplied into the force of the demand for it." Briefly, just as cost in terms of labour expended is the product of three factors—somatic energy, by skill, by time, so the price or exchange value of any commodity or service is the product of labour expended by demand. Moreover, as Ruskin points out, if any of the factors of the product is worthless then the product itself is worthless; which is of course simple mathematical fact.

We have so far defined what we mean by labour, wealth, cost, and price in their simplest forms as we have traced them from their point of origin—Work, the purposeful expenditure of energy. We must now say something about the means used to measure these things in everyday life.

(d) Money

In a primitive community much of the labour is communally shared, and the objects of it go into the communal store. Its wealth is measured in terms of its flocks and herds and

crops. Such trade as is carried on with neighbouring communities, as for salt to preserve meat, and flints or iron for weapons and implements, is by way of direct exchange of skins and hides and grain, and so on. But the community's trading capacity is limited so long as it is confined to barter. Most people, fairly early in their primitive corporate existence, discover the inconveniences of the system, and devise a means by which the relative worth of goods may be measured and their exchange facilitated. Almost any object may be used for the purpose if convenient to carry, storable without deterioration, and not too easy to make or procure, because human nature being what it is men would be tempted to make, that is, counterfeit, the currency rather than make the goods whose worth it represents. At one time or another, in one place or another, all kinds of objects have served the purpose of currency—feathers and fish-hooks, blocks of salt and bars of iron, spear-heads and shells. In recent days in Europe cigarettes and coffee have been used in preference to the currency notes issued by governments. Western peoples conventionally use ingots of gold and silver, and coins of gold and silver and the baser metals, or specially printed notes, because it is not at all necessary that the objects of currency should have any real use or value in themselves. In fact, in some ways, it is as well they should be themselves valueless. After all "Money is not, properly speaking," says Hume in his *Essay on Money*, "one of the subjects of commerce, but only the instrument which men have agreed upon to facilitate the exchange of one commodity for another." If two men decide to barter between them a couple of sheep-skins for a spear-head it may be assumed that the one thinks the other has given as much labour to dress the skins as he has given to make the spear-head: the skins are "worth" the spear-head. If, however, the man with the skins does not want a spear-head he may well accept a particular coloured feather in token of the fact that he has supplied someone with two sheep-skins, and he will pass the feather on when he finds someone else with an object he desires which is about the worth of the sheep-skins. That feather serves the purpose

of a receipt for the labour he expended on the skins. It has no value in itself; but it facilitates the exchange of goods and services between men. Again we may briefly quote Hume: "It is, indeed, evident that money is nothing but the representation of labour and commodities, and serves only as a method of rating or estimating them." That is the purpose of all currency; or money, as most people call it and think of it.

(c) WAGES

With that thought in our minds let us now look at the matter of wages. Wages (and we may include salaries too; for though salary has now acquired a rather artificial distinction originally *salarium* was but a soldier's salt money) are simply an acknowledgement that so much labour has been placed at the disposal of another. To quote Ruskin's own words, "The abstract idea, then, of just or due wages, as respects the labourer, is that they will consist in a sum of money which will at any time procure for him at least as much labour as he has given, rather more than less." The coins the labourer receives are a token of a promise to repay in energy, and skill and time, as much as he has given, no less. Indeed if you hand the honest fellow a Pound Note you will see that you appoint the Bank of England your agent for the satisfaction of your obligation, for the £1 Note reads: ". . . Bank of England promise to pay Bearer on Demand the sum of One Pound . . ." so the labourer, at his discretion, may receive goods or services estimated to be worth One Pound. Thus the gardener converts his knowledge of plant life and soil, his strength and his time into meat and drink, house accommodation, clothing, and such other necessities and amenities as he and his family may require and enjoy. So far we have considered the "abstract idea of just wages." What of the reality? The provider of labour is subject to the same law as the provider of any other article of trade. When the labourers are few and the work is great the *price* of labour—the wages of the labourer will tend to rise; but when the labourers are many and the work is light their

reward will tend to be less. The fluctuation of wages due to the operation of the law of supply and demand, it is interesting to recall, was ascribed by such men as J. S. Mill and Ricardo to the proportion existing between the number of the labouring population and the size of the "Wages Fund": that part of the country's capital (which we have not yet defined) supposed to be set aside for the payment of wages and salaries. But it is surely evident the whole of a country's money, all the money in the world in fact, is nothing but a "wages fund"; limited as to size only by the labour—the energy, skill, and time—at our disposal with which to honour our promise to repay. It is perhaps a little difficult to realize that every time we pay a bill, or buy a railway ticket, or even a ticket for a seat in the theatre, we are simply giving a receipt for, an acknowledgement of, so much labour received, or about to be received, which, in due time must be repaid. But no matter how complicated our transactions and dealings this simple fact remains true.

The great perplexity is how, with the increasing subdivision of labour tasks, to estimate the *just* reward for each kind of labourer—for we are labourers all. It is really bound up with the problem of preserving a balance in the economic activity of a community. But let us look for a moment at how Ruskin posed the problem: "If the ground maintains, at first, forty labourers in a peaceable and pious state of mind, but they become in a few years so quarrelsome and impious that they have to set apart five, to meditate upon and settle their disputes; ten, armed to the teeth with costly instruments to enforce the decision and five to remind everybody in an eloquent manner of the existence of a God; what will be the result upon the general power of production, and what is the "natural rate of wages" of the meditative, muscular and oracular labourers? Leaving these questions to be discussed, or waived . . ." he goes on—it is for us, it seems, to discuss them.

First, it will be noticed Ruskin has put two questions: (i) What will be the result upon the general power of production? (ii) What is the "natural rate of wages" of the medi-

tative, muscular, and oracular labourers?

It seems right to assume that while these forty labourers lived in peace and piety each devoted his energies to the performance of those daily tasks necessary to maintain life and to add enjoyment to it; at least we hope so. Each would perform all these tasks for himself, and so (because, in this discussion, we assume an equal diligence on the part of all) each would enjoy what is vaguely called to-day the same "standard of living." The "natural rate of wages" would be, therefore, *the same for all.* Would an outbreak of impiety and quarrelsomeness alter the "natural rate of wages"? Hardly. The ultimate purpose *of all* of them remains the same—to sustain life and enjoy living it; their need to labour remains the same; and their need demands the same daily expenditure of labour—of which wages are but the measure. So we have answered the second question first; and a strange answer it is! To the labourer arrayed in scarlet and ermine, for his meditation and judgment, to the labourer armed with broadsword and pike for the strength and protection of his right arm, we would pay the same as to the labourer for his surpliced eloquence, or the labourer in smock and clogs! But we do not!! Why?

We will proceed to the other question—What is the result on the general power of production? It may help to throw some light on our strange answer to Ruskin's second question. In peace and piety forty men maintained themselves upon the land; but to combat strife and wickedness half that number must be withdrawn and their energy and ability expended in other ways. So, at first sight, it appears either half the population will starve, or the whole must live on half the former production. But neither justice, protection nor eloquence is to be had from empty stomachs. The alternative is for each of the remaining twenty land labourers to double his production; either by working twice as fast, or by working twice as long every day—or, perhaps, they invent some labour-saving machines. However that may be the land labourers must each provide sustenance and service for two men: one part for each of themselves, and one part to be exchanged for

learned judgment; freedom from fear; and comfortable words of consolation. The conclusion, then, is that the general level of production is maintained; and it may well be that efforts will be made to attain an even higher production rate, because as we well know the services of judges, soldiers and priests to the community are generally deemed to be of far greater value than the bare minimum of subsistence. The fact is the preservation of peace and piety is rather highly esteemed by most people, and for the sake of that they are ready to pay rather more than the mere "natural rate of wages." That is really the explanation of our previous answer. It applies also to many other walks of life.

(f) The Problem of Skill

We included in our definition of labour the factor "skill," you will remember. It is, indeed, a very important factor, making all the difference between a job well done and a job poorly executed, unsatisfying and ineffective. Ruskin wrote: "Under the term "skill" I mean to include the united force of experience, intellect, and passion in their operation on manual labour: and under the term "passion" to include the entire range and agency of the moral feelings; from the simple patience and gentleness of mind which will give continuity and firmness to the touch, . . . up to the qualities of character which render science possible. . . ." Of these qualities experience is only to be gained by service, but intellect and what Ruskin calls passion are of the mind; and these mental qualities in their most developed form may not be accompanied by experience and craftmanship, hence we have developed the habit of forming teams to combine these qualities, drawing on the practical experience and knowledge of one, on the scientific and technical knowledge of another, and on the feelings of others for inspiration and interpretation, all of which are brought into being and made effective by the operations of the manual labourers. We are labourers all, and our labours are complementary. But when we come to consider the wages of each kind of labourer we must not only take into account the number of minds available in which

these qualities are sufficiently developed, and the amount of experience involving long service at our disposal, but also the relative importance of these qualities in ensuring that the labours of the whole team shall be brought to a successful conclusion. The loss of any of the mental labourers in the team may well be very much more serious than the loss of a manual labourer. The developed and useful brain is not as easy to replace as developed and useful brawn. So, in fixing the wages of the mental labourer we are influenced by the law of supply and demand, as well as by the relative importance of his place in the team, and by the relatively higher worth generally attributed to skill over somatic energy. It is interesting to notice that as the effects of a nation-wide education system become apparent, making available more and more minds sufficiently developed to take a proper place in industry, trade, commerce and the professions, so the gap between the wages of the mental and the manual labourer tends to decrease.

(g) Capital

The introduction of the use of money into a community's economy, that is what the economists call the change from *natural* economy to *money* economy, does much more than facilitate the exchange of goods and services; it frees men as they never can be free while bound to the soil or a master rendering services in kind. It confers on a man freedom of movement, freedom of choice of employment, freedom to work and spend as he chooses. But above all it enables effort expended in excess of the community's immediate needs to be projected into its further and future development. That step forward, and toward continued progression, is possible only by the use of "Capital." Under natural economy men may accumulate great wealth in goods of all kinds, in flocks and herds, but such wealth is not readily convertible and usable in other forms of industry; it is not, to use a current business term, "fluid." Although a man may have great possessions, the results of his labour cannot be applied in other directions and adapted to other purposes until he has

the advantage of the medium we call money to make them easily transferable and available for use. Capital, then, may be defined as *labour* expended in excess of immediate requirements, set aside, accumulated, converted to a usable form, *and used* to encourage and assist the expenditure of further useful labour. That definition is worth a few moments study. Consider the qualities it indicates in a man who accumulates wealth and brings it into use as Capital: "labour expended in excess of immediate requirements" indicates industry; "set aside, accumulated"—thrift; "converted"— initiative; "and used"—courage, enterprise and adventure. These were the qualities which made the Merchant-Adventurers of the 15th and 16th centuries, and the Industrial pioneers and Empire-builders of the 18th and 19th centuries. These qualities alone may not make angels, but, at least, they make men; men, who, in achieving for themselves confer greatness on the nation. What is not sufficiently understood in these days is that without Capital and the Capitalist (keeping in mind that even in "Nationalisation" and "Communism," in the last analysis, there is nothing but the substitution of one Capitalist for another) every man would have to begin life at exactly the same point as his primitive forefathers. Everyone on a workshop floor should realise that. How else can the building be set up, and the machines and the tools provided to start and carry on a business? It is useful to notice Adam Smith's suggestion that Capital is "that part of a man's property which he expects to afford him a revenue," because if we trace it back through the definitions we have so far given it becomes obvious that the "revenue" is but the payment for the labour formerly expended by the Capitalist, and now hired out by him to encourage and assist the expenditure of further useful labour. There is nothing wrong in that: as Adam Smith says, "The property which every man has in his own labour, as it is the original foundation of all other property, so it is the most sacred and inviolable."

One last point on this subject. Capital is sometimes divided into *fixed capital*, that is the capital used to provide buildings, machinery and tools, and *circulating capital* used to provide

fluence, and by uniting their credit they acquired great ascendancy in public affairs. Anselm settled in Frankfurt, Charles in Naples, Solomon operated in Berlin and Vienna, James in Paris, and Nathan came to England. When the Khedive of Egypt decided to sell shares in the Suez Canal worth four million pounds in 1875, the British Government, as they said to avoid disturbing the market—but more probably because they could not get Parliamentary sanction quickly enough—arranged with the House of Rothschild a loan for the amount at 15 per cent. per annum. The British Government paid 10 per cent.; the Khedive 5 per cent. The deal was arranged on the 25th November and publicly announced on the 26th. So through the agency of the Rothschilds Britain obtained her interest in the Suez Canal Zone, which has lasted till the present year.

(b) THE "WORLD'S WORKSHOP"

Between the publishing of Adam Smith's *Wealth of Nations* in 1776 and the year of the Reform Bill, 1832, the first moves were made which were destined to turn this green and pleasant land, England, into the "World's Workshop." Brindley, a millwright of considerable local reputation, was employed by the Duke of Bridgewater in 1754 to construct his famous canal; and in 1761 his genius was engaged to connect Liverpool and Manchester by canal, he was also employed to connect the Severn and the Grand Trunk canal. Transport by water was developing. In the years 1764-68 two weavers, Hargreaves and Crompton, and a barber, Arkwright, respectively invented the spinning jenny, the mule, and the spinning machine, with great consequences to Lancashire and Yorkshire. John Macadam (1756-1836) and Thomas Telford (1757-1834) both made their mark in highway construction; and the experiments of Cugnot (1769), Trevithick (1802), and Hedley and Stephenson (1815) with locomotive engines culminated in the construction of the Stockton and Darlington Railway in 1825, the forerunner of the network of "Iron Roads" now covering the country, and,

indeed, a large part of the world. In 1763 Josiah Wedgwood established his pottery works, and less than twenty years later twenty thousand potters were employed in Staffordshire. Such were the first moves. The introduction of power-driven machinery to supplant the old hand processes finally established the factory system as we now know it, and incidentally created a great demand for the use of Capital.

(c) The Joint Stock Company

The joint-stock company seems to have first appeared in this country with the formation of the "Mystery and Company of the Merchant Adventurers" in 1553. The members or shareholders numbered 240, and each share was for £25. Other companies engaged in overseas trade soon formed on the same lines; one of the most notable being the East India Company founded in 1600. Until the opening of the 17th century, and for some time after, English enterprise continued to be conducted on essentially individualistic lines; certainly family partnerships were formed, but only occasionally were really large partnerships formed for enterprises within the country. The events of the last quarter of the 18th century were destined, however, to lead to enterprises requiring far larger Capital investment than had previously been the case; canal and railway construction and operation, for example. Between 1826 and 1849 Parliament authorised the various companies to expend £348 million on railway construction; a very large sum in those days. So joint-stock companies were formed offering shares for public subscription.

Now a company is an association of persons voluntarily formed for the purpose of carrying on some trade, business or enterprise. At the present time such an association must comply with the provisions of the Companies Acts, the latest being the Companies (Consolidation) Act, 1947, and register itself with the Registrar of Companies in London. It may be that persons forming a company will agree to provide the whole of the capital necessary from their own resources, in

which case it will be a private company; though the shareholders may still have their personal liability limited, either to the nominal value of the shares held, or by guarantee. But, on the other hand, the company's founders may subscribe only part of the capital and issue a "Prospectus" inviting the public to subscribe the remainder. In practice this business is usually undertaken on behalf of the persons forming the company by an "Issue House," normally one of the Stock Exchange firms, which may itself, or in conjunction with others, do the promotion—that is take all the requisite steps to give the company legal existence, place its shares on the market; and arrange the "Underwriting," that is the taking up of unsold shares by other finance houses and brokers, for a commission. Incidentally we must mention that it is now necessary to obtain Treasury sanction before making a capital issue. In any case the capital is issued in units, each called a share, the nominal value of which may be anything from a shilling upwards. There are different kinds of shares, for example, Debenture, Preference and Ordinary, each carrying different rights as to payment, voting at the company meetings and so on. But we need not discuss that here. Now the documents issued by companies and corporations in acknowledgment of the money they receive from subscribers are variously designated as Bonds, Scrip, Stock, or Share Certificates. Briefly, a bond-holder claims a fixed rate of interest on his capital before any profits are divided amongst the shareholders. His bond may be "registered," in which case he receives his dividend warrant from the company direct by post; or it may be "bearer," in which case the bond may be passed from person to person, because the bond has attached to it a number of coupons which may be detached by any one holding the bond and presented for payment as the dividends fall due. Scrip (abbreviation of Subscription) is the certificate issued for the instalments paid on shares. When the shares are fully paid up a Share Certificate is issued in exchange for Scrip. Stock is simply a bundle of paid-up shares, usually a £100, on which interest is paid at a fixed rate in perpetuity. Such are some of the principal

securities dealt with in the financial market.

(d) The London Stock Exchange

It is significant then that the need for a market dealing in the stocks and shares of joint-stock companies should have been sufficiently felt to lead to the founding of the London Stock Exchange in the closing years of the 18th century. For a time its business was conducted in the Rotunda of the Bank of England and a coffee house in Threadneedle Street to which the public were admitted. By 1802 the Company, for it is a Proprietary Company, had erected a building for itself in Capel Court. The membership of "The House," as it is called, is divided into two classes: the Dealers or Jobbers, who act as middlemen and severally deal in particular classes of securities, thus forming groups of "markets" within "The House," and the Brokers who act as intermediaries between the public and the jobbers. Thus, when a member of the public wishes to buy or sell some particular shares or securities he gives an order to his Stockbroker, who approaches a jobber dealing in that type of security and arranges the deal on a commission basis.

The London Stock Exchange is managed by two committees; an executive committee of some nine members which fixes the entrance fee and the annual subscription to be paid by members of "The House," and controls its income and expenditure, and the Committee of General Purposes, consisting of a chairman, a deputy chairman, a secretary and some thirty-two members, which supervises the business side of the Exchange.

From time to time critics may be heard denouncing "gambling on the Stock Exchange." Such criticism is usually part of the stock-in-trade of the opponents of the so-called "capitalistic system," as it is at present operated. That there are speculators in the stock and share markets, as distinct from investors genuinely seeking a use for their capital, cannot be denied. But the difficulty of distinguishing the speculator from the genuine investor, and dealing with him, can be appreciated only if we know something of the working of

the Exchange. The true function of the Exchange is to serve as an agency facilitating the transfer of securities between investors with capital waiting to be employed and investors desiring to readjust the use of their capital; and in the fulfilling of this function there are men who find opportunity to take profits without making any true investment of capital. We shall see how this is done if we look at the methods of dealing on the Stock Exchange. First we must notice there are two periods of three days each in each month fixed by the Stock Exchange Committee for settlement, during which every transaction is closed. On the first day of the settlement, "Contango" or Making-up Day, the brokers arrange with the jobbers to carry over bargains to the next account; on the second day, "Name Day" or "Ticket Day," brokers who purchased registered securities pass to the jobbers who sold them the names of the purchasers, i.e., "the name" or "ticket," so that Transfer Deeds may be prepared transferring the stock from the seller to the purchaser; the third day is "Settling" or "Pay" Day when the Transfers are handed over and the securities are paid for; or the *differences* paid and received. Now the word *difference* brings us back to the speculator on the Stock Exchange. In the language of Throgmorton Street, he may be either a *Bull* or a *Bear*. A Bull is a speculator who buys stock hoping that before the next Settling Day its price will rise so that he may at the right moment sell it at a price higher than he has undertaken to pay for it at the next Settlement. In short he hopes to make a profit, which is the *difference* between his buying and his selling price, without having any intention of handling the stock! Of course, if the price unfortunately, for him, goes down he may either sell the stock at the market price and pay the difference to balance the account on Pay Day, or he may, by arrangement, carry over the settlement to the next account. On the other hand a Bear *sells* expecting a fall in the price of the security; that is, although he neither in fact delivers the stock, nor eventually receives it, he contracts to deliver it at *to-day's* market price on the next Contango Day. If the price of the stock

does fall by Contango Day all he does is to claim the difference between the price at which he contracted to sell and the market price on Contango Day. That is his profit. Of course if the price rises he will lose on the transaction, because he will have to pay for the stock at the market price on Contango Day plus his expenses; but he may be able to arrange to "carry over" the bargain to the next account hoping that the price will again fall so as to allow him to complete the transaction at a profit.

There are, too, speculators who deal in "options." By paying down a percentage, or so much a share, they acquire an option to buy, or sell, or do both, with a certain stated quantity of stock within a certain fixed period. They thus limit their liability while gambling on the rise or fall in price.

While there is nothing that can be said in favour of these persons as gamblers we have to recognise that their operations do often tend to absorb the shock of market fluctuations to the advantage of the genuine investor. The great risk, however, is that an interested group of speculators may not scruple to attempt manipulation of the market by spreading false rumours, and by other devices encourage or discourage purchases or sales, as best suits their purposes. Even governments, through their agents, have been known to resort to such manoeuvres. On the whole the jobbers on the market can do much towards stabilizing it when violent fluctuations seem likely by "marking-up" or "marking-down" prices, so checking business for the time being in the securities affected. Since there seems to be no thing or system yet made or devised by man incapable of abuse or misuse it is somewhat unjust to allow the activities of the speculator to obscure the value of the Stock Exchange in providing a ready means for companies and undertakings requiring capital to make use of that held by investors anxious that it should be employed. It is, indeed, an essential link between the industrious man who, now or in the past, has accumulated and converted his surplus labour to usable form and the man who needs it to further the expenditure of yet more useful labour, and it is as important in our mercantile system as the market place was

to the merchant of old.

There are comparable institutions in all countries with a "free" economy for the financing of industry, business and commerce; the most important of them now being that in New York—Wall Street.

(iii) Banking and Bankers

The business of the banker consists in trading in money. He receives, lends and exchanges it. Banking is a very old business. One of the earliest recorded banks seems to have been that at Babylon, about 700 B.C., kept by one called Egibi; and, it may be recalled, the money changers are mentioned in the New Testament, though, as one writer suggests, they were not really high class publicans. Both the Greek money changers, *Trapezitae,* and the *Publicani* of Rome, as far as we know, received deposits and made advances, doing mercantile as well as financial business. Cicero, it seems, remitted money from Cilicia to Rome through a firm of *publicani;* though we have no evidence that they knew the use of bank notes. Of the most notable banks in modern Europe one of the earliest was the Bank of Venice, founded for State purposes in 1157. The Bank of Barcelona was established in 1401, but banking business had been carried on in that city before then, by the cloth merchants; and the Bank of Amsterdam also was founded only for commercial purposes in 1609. The first European bank to issue notes was the Bank of Stockholm, established in 1688. In this country the Bank of England was founded in 1694. In consequence of a loan to the Government of upwards of one million pounds the subscribers were granted a Charter by William and Mary incorporating them in a bank on a plan put forward by William Paterson, a Scottish merchant. This bank from the time it commenced business has always had the privilege of issuing notes. It is interesting to notice that in the year after opening the value of the notes fell so considerably that payment was suspended in 1696; and, after a run on the bank in 1797 cash payments were again suspended, this time for 26 years till 1823, payments being made in bank notes only.

(a) The First "Bankers" in England

The Bank of England, however, is not by any means the oldest in this country. The Jews who came to this country soon after the Norman Conquest were the first bankers, lending of their considerable fortunes to the nobility at a high rate of interest until they were banished from the country in the time of Edward I. They were succeeded by the Lombards who combined the business of bankers with that of pawnbrokers and goldsmiths. It has been said that the seizure by Charles I of some £200,000 belonging to the merchants of London led them to deposit their money with the goldsmiths, who gave transferable receipts for it known as goldsmiths' notes. It seems likely the goldsmiths, with their capital of precious metal, had functioned as bankers before then. However that may be, Francis Child, who had been apprenticed to a goldsmith banker, eventually found banking so profitable that he relinquished the other branches of his business. He was the founder of the business of Child & Co., who stored their ledgers in the old Temple Bar. The business of Lloyd's Bank was first established in 1677; and it is recorded in *Chambers' Caledonia* "the first county bank that any where appeared (*in Scotland*) was the Aberdeen Bank which was settled in 1749; it was immediately followed by a similar establishment in Glasgow during the same year." Adam Smith, in his *Wealth of Nations* published in 1776, referred to "the late multiplication of banking companies by which many people have been much alarmed." By this time small private bankers had begun to appear in almost every considerable town in the country; many of them issuing notes. The subsequent amalgamation of some of these private banks resulted in the formation of the Joint Stock Banks of today. By the Bank Charter Act, 1844, banks not issuing, or ceasing to issue, notes were forbidden to commence or resume a note issue, in consequence of the excessive issue of bank notes and the drain of gold from the country. In 1879 the Joint Stock Banks Bill was passed by which unlimited banks were empowered to register themselves as limited in liability.

(b) Classification of Banks

Banks may be classified as public or State banks, joint stock banks, and private banks. The first usually owes its origin to the subscription of a loan to the State, as in the case of the Bank of England which now serves as the Government's banker, managing the National Debt and the Note Issue, and administering the Exchange Control Regulations. The joint stock banks carry on their business as corporate companies, now with limited liability; while the private banks conduct their business very much as an ordinary partnership, limited or unlimited.

In banking capital is a consideration of the highest importance; in the case of the State bank it is represented by the loan from the public to the Government; the capital of joint stock banks is subscribed by the shareholders, while the deposits of the bank's customers may be regarded as the equivalent of capital; and the capital of the private bank is provided from the resources of the partners themselves.

(c) The Banker's Business

Now the banker's business is essentially that of trading in money—the tokens of wealth; of organising the somewhat complicated money and book-keeping transactions involved. From his customers the banker receives deposits; those he holds *at call,* that is repayable on demand, form the current accounts on which no interest is payable; and those on which he agrees to pay interest subject to due notice of withdrawal being given by the customer. Current accounts are used by customers in their day to day business, and deposit accounts are formed of those sums of money for which the bank's customers have no immediate use. All money deposited with a banker immediately becomes his property to apply to such purposes as he thinks fit; and the customer becomes just an ordinary creditor of the banker. To withdraw his money from the banker the customer uses cheques, which are demand notes or orders in unequivocal terms for the repayment of the money. Since the cheque is a peremptory order to pay cash it is necessary for the banker to keep on his premises

such an amount of notes and coin as he is likely to be called upon to pay. This amount he tries to keep as small as is possible, because the more he keeps in hand the less he has available for lending or investment.

The use of cheques by countless customers, drawn on all the different branches of banks scattered all over the country, involves the use of a definite system for collecting and distributing the cheques to the bankers on whom they are drawn. Though this may be done locally by messenger, or through the post, the payment of the great bulk of them between banks is made by a series of book-keeping entries based on information supplied by the London Bankers' Clearing House, in Post Office Court, Lombard Street, showing the amount of cheques and bills in their hands for collection from other bankers. Representatives of each of the clearing banks attend the Clearing House every day and enter on forms provided for the purpose the amount of cheques and bills drawn against others and against their own office. At the close of business a balance is struck by means of transfers between the accounts kept by each of the clearing bankers with the Bank of England; so that practically the whole of the banking reserve of the country is under the control of the Bank of England, now "nationalised" by Act of Parliament. The Clearing House is managed by a committee of representatives of the leading bankers.

At one time the Metropolitan and Country Cheque Clearings existed as separate Clearings, but during the late war they were combined with some part of the Town Clearing to form a single Clearing. Head Offices and certain City branches of Clearing Banks still carry out a separate Clearing.

The business of a banker, however, is by no means confined to the receipt and payment of money for and from customers' accounts. It extends to the discounting of Bills of Exchange (incidentally the *Bank Rate* is the minimum rate at which the Bank of England is prepared to discount approved Bills of Exchange, that is Bills bearing the names of at least two London brokers, or financial houses); the advancing of money on loan against negotiable securities; the

purchase and sale of stocks; and the collection of dividends, pensions, and salaries on behalf of customers for payment to their account. Bankers will also undertake to act as executors and trustees for estates; and keep the books for corporations and companies, and for those local government bodies not employing their own finance officers, paying out dividends as required. They act, too, as agents for foreign banks in this country, and assist their own customers travelling abroad by the issue of travellers' cheques, letters of credit and circular notes; but owing to the present Exchange and Currency control regulations some of these services are now somewhat curtailed.

The profits of a bank are derived from the interest on the shareholders' capital, the interest on the deposits and loans, the discount of bills, and from the commission and fees for the services it renders.

(d) THE "BIG FIVE"

Besides the Bank of England, which holds the gold reserve of the nation, and the "Big Five," which includes Barclays Bank Ltd. (1896), Lloyd's Bank Ltd. (1865), The Midland Bank Ltd. (1836), The National Provincial Bank Ltd. (1865), and the Westminster Bank Ltd. (1836), many other banks exist, some in affiliation with the larger banks. There is also the Post Office Savings Bank, established by Parliament in 1861. In this case anyone may open an account at any Post Office with a minimum deposit of five shillings, and further deposits may be made in any amount in coin, Savings Stamps, by cheque, postal order or money order, providing these have not been crossed to any other bank than the Bank of England. The upper limit for deposits in any one year is now £1,000. In this country there is one Municipal Bank, established under the Birmingham Corporation Act, 1918. This bank is the responsibility of the Corporation of Birmingham. It accepts deposits from one penny to £500 in any one year, and there is no limit to the total amount a depositor may have standing to his credit. Deposits may be made, apart from private individuals, by Trade Unions, Friendly Societies, Building Societies, and Industrial Provident Societies.

(iv) Modern Industry, Trade and Commerce

The growth of the workshop from a shed containing a work bench, a few hand tools and, maybe, a treadle-driven lathe, to an enclosed covered space of some acres containing giant machines, such as steam hammers and rolling mills, power presses, lathes and all kinds of complicated and delicate power-driven tools, employing hundreds or thousands instead of a score of workmen, has created a host of new problems. There are problems of finance; the getting together of money to erect the structure, to buy the machines, and to pay for the raw materials and the services of the people who operate the machines: problems of organisation and management involving the arrangement and division of the tasks: problems of assembling and balancing the working team so that from apex to base, from board room to factory floor, it functions as a complete and harmonious whole; and that leads on to matters of man management and workers' welfare. Those are some of the internal problems of a factory; it has, too, its outside problems of buying, marketing, salesmanship and the competition of other firms to meet. The attempts to solve these and other problems of large scale production have had various consequences, and produced tendencies we will discuss as fully as space permits.

We have already referred to the formation of the Joint-Stock company as the means of overcoming the difficulty of financing large scale production. We return to the matter here to point out that the real owners of a company are the stock and shareholders, who may number, in any one company, from two to several thousand; and the interest of any one shareholder in a company may vary from a few pounds to the greater part of a company's capital. It is the money of the shareholders that is the company's capital; and it must be obvious that the ownership of the company is in reality very widespread. Moreover shareholders may be found in almost every section of the community; they are not confined to any one social "class." It is true there are still rich men in existence, there are even excessively rich men, but, perhaps rightly, their number is declining. So, if we think of

"Capitalists" as a small body of very rich men owning the greater part of the country's industry we deceive ourselves. The fact is our present day "Capitalists" are a numerous body of persons each holding anything from a few pounds to some thousands of pounds worth of stocks and shares. But owners of the company as they are, the shareholders, as a body, exercise no more than nominal control over the companies affairs, and with very few exceptions, they take no part at all in its management; both control and management, subject to certain legal provisions, are vested in the board of directors. This group of men (two are legally sufficient, but the larger company boards consist of more) sitting round the board table in the board room really determines the policy of their company, its operations and finance, subject to the company's Memorandum of Association and the general approval of the company's stock and shareholders. The directors usually hold a certain number of shares each to qualify for a seat on the board, but often their holding is quite nominal, and it may be no qualification is required: it depends on the Articles of the company.

(a) Amalgamation

Now if there be any criticism to make of our modern industrial and commercial system it should be directed not so much to the question of ownership as to that of control. To a very marked degree during the present century, though it extends back into the previous century, there has developed a tendency towards amalgamation and combination between companies. It runs in two directions; amalgamation to bring under single business control the whole or greater part of an industry, as happened in the textile industries at the beginning of this century, or amalgamation to unite the control of a whole series of processes, as Krupp did in Germany when he gained control of the whole of the processes from mining the iron ore and coal to the polishing of the gun barrels. Where there is not actual amalgamation by buying up a company, or a controlling interest in it, there may be combination by agreement, which, if it has international ramifications,

is called a Cartel—against which the United States of America have enacted the Sherman Anti-Trust Laws. It is usually sought to justify these various forms of combination on the grounds that they reduce "overhead" charges, e.g., advertising and the like; that bulk buying "cheapens" costs, and that these advantages can be passed on to the consumer in the reduced price of the finished goods. Doubtless these things are possible, but they seldom happen. Some figures were published three years ago to show that the effect of the "Steel Ring" had been to drive up the price of steel from £13 10s. a ton in 1934 to £20 a ton in 1939 and £33 a ton in 1944. In another instance a combine was alleged in the courts to be paying a subsidy to a company *not* to market a certain mineral by-product. Through cartel activities German combines controlled 170 enterprises in U.S.A., 233 in Sweden, 214 in Switzerland, and many others in other countries. It has been pointed out also that in this country 18 giant combines are responsible for 9.7 per cent. of the whole industrial production of the country, and for 8.5 per cent. of industrial employment in 118 commodities. Apart from the combination brought about by the purchase of controlling interests, a large measure of control and co-ordination is brought about by a process sometimes termed the "interlacing" of directorships—in one case one person had a seat on the boards of no less than 54 concerns, and instances of a person holding between twenty and thirty directorships are certainly not uncommon. Directors, by the way, are usually paid fees for their services.

Now the gravamen of this form of industrial organisation is that it finally leads to a restriction of trade and markets, the raising of prices and the strangling of competitors; while it concentrates tremendous power and influence in the hands of small groups of men, who by no means own the capital they control. What influence such groups of men may have has been revealed by the proceedings in Germany against the industrialists who supported the National Socialist German Workers' Party—the Nazi Party. So it is against the system of combination and control in industry that criticism should

be levelled rather than against ownership; and wisely directed it might do much towards contributing to the peace of the world.

(b) Labour Combines

But this aspect of combination is not the only disturbing feature of modern industrial life. There are now in existence extensive labour combines. In this country there is one amalgamation of trade unions with reserve funds of over £7,000,000; two with reserves of over £3,000,000, and another with a reserve of about £500,000, while its constituent bodies have reserves amounting to more than a £1,000,000. These elaborate organisations sprang, as we have already noticed, from the desire and need of working men and women to protect themselves from the unreasonable demands of some unscrupulous masters. Their purpose was to obtain improved working conditions, reasonable hours of work, and just rewards; and generally to watch over the interests and welfare of their members. Their path has been a hard one; but a considerable measure of success has attended their efforts. As time has passed the original unions to make their own action more effective and partly to combat the formation of employers' associations have followed a policy of fusion; either by outright amalgamation or by federation. This has resulted in a few of the more thrusting and ambitious union leaders climbing to the apices of lofty organisations; one of which has an annual income of £1,500,000. The officials, the principal of whom is usually styled the general secretary, are in most cases, at least nominally, under the control of the delegate conference. The coping stone at the head of the trade union structure is the Trades Union Congress, familiarly known as the T.U.C., a voluntary association of Trades Unions founded in 1862. The annual meeting of the Congress is intended to provide an opportunity for delegates of the associated unions to discuss all matters of common interest to their members; it also elects the General Council of the T.U.C., a body of just over 30 members representing trade groups. The purpose of the General Council is to

watch industrial and legislative developments likely to affect the interests of the Trades Unions' membership; it has considerable authority vested in it—to call for joint action, to assist in the organisation of unions, and to arbitrate between its associated bodies. The General Council also maintains close relations with the Government and its Departments, and it is represented on the National Joint Advisory Council —a body which includes representatives of employers from the Federation of British Industries, and the British Employers' Confederation; and works at Cabinet level, that is, in close collaboration with the Ministers of the Government. On the other hand the General Council of the T.U.C. maintains close contact with the Labour Party through the National Council of Labour, made up of representatives of the National Executive of the Labour Party, the Administrative Council of the Parliamentary Labour Party, the Co-operative Union, and itself.

So much then for the systematic linking up and combination in industry of employers on the one side and employees on the other; not entirely against one another for, indeed, at the higher levels there is a considerable measure of co-operation between the parties. On the contrary, not infreqeuntly the combination is used against members of its own side, as for example the boycotts, deferred rebates and stop lists, used against firms to restrict competition, to enforce price regulation, and to control production, on the one side; and the "closed shop" against non-union members restricting their opportunity to work at the occupation of their choice until they subscribe to the union funds on the other side. Moreover there have been occasions when it has been claimed by both employers and trade union officials that the "constitutional machinery for negotiation" precludes any direct discussion with workmen of their grievances and claims. Neither ought we to fail to notice that the limitation of hours for women and young persons by the Factory Acts, and the protection afforded the workman against imprisonment for breach of contract by the Empoyers and Workmans Act, 1876—legislation by a Conservative Administration—have

been virtually annulled by the first Socialist, or Labour, Government to take office with an absolute majority in the House; indeed, by the Dock Workers (Regulation of Employment) Act, 1945, a docker striking, or not working for a *specified employer*, may be imprisoned for three months or fined £50. Two years later the same government has assumed powers to "direct" labour, as it is euphemistically called; a measure which may break up and disperse families, deprive men and women of the chance and right to choose their careers, and which could be used to reduce the workman to the servitude imposed by the Statutes of Labourers in the fourteenth century and the Statute of Artificers, 1563. Since these retrograde steps have been taken by a government containing trade union officials and presumably after consultation with the National Joint Advisory Council, we leave you to consider and discuss such questions as: Does the voice of the workman reach, and is his will effective at, the summit of the trade union organisation? Would it be to the general advantage of the worker if union control were decentralised to area or district level? On the employers side of industry the questions we pose are: Ought there to be some "disintegration" of combines and monopolies into smaller independent units? Would the "disintegration" of large monopolistic concerns, if honestly brought about by international agreement among the leading Powers, bring more stable conditions to the world? It is not without significance that modern large scale warfare has been possible only since the movement towards combination in industry, and mass production set in.

It may be that in the past too much attention has been given to the ownership of organisations of all kinds and not enough to their size and potentialities, and to the control of those who direct them. Even the highest appointments are held by human beings animated by such emotions as we ourselves possess: and there is not necessarily any special merit in size, though it does something to satisfy human vanity.

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A Useful Survey

The industrial development of this country during the past hundred and fifty years has produced some very far reaching consequences on the general trend of trade and commerce. At the turn of the century we had reached a position of pre-eminence as the "World's Workshop," and our merchant shipping served as the "World's Carrier." Outwards it took the goods from our mills, locomotives, rolling stock, machinery and hardware of all kinds from our factories, and coal from our mines. Inwards it brought all kinds of grains, fruits and meat, the raw materials for our manufactures, and the luxuries we desired from all quarters of the globe; while cargo ships of ours "tramped" from port to port carrying the goods of all nations. Our technicians, engineers, and advisers were sought overseas to supervise the construction of railways, bridges, harbours, power stations, irrigation works and the like, and to set up new industries. From all these activities we derived a very substantial income with which to pay for the infinite variety of things carried home for our use and enjoyment.

All this changed us from a rural to an urban people; and to it no doubt may be related the fact that in the century 1801-1901 the population increased from 16¼ million to over 41½ million. But still these islands numbered only the same 77¾ million acres as in 1801; though by 1901 many of them had been consumed by the ever-growing towns and cities, by inundation to supply water for urban use, and by the development of railways and roads. So the space for food production diminished while the numbers to feed increased. That was not a very serious matter as things were in the first fourteen years of this century; but the importance of it is now being realised with increasing force: we stand before the world as a nation with an unbalanced economy.

In 1914 and the years immediately following the greater part of the world decided to go to war on the grand scale. For four years the fruits of men's labour and their wealth were blasted and burnt and consumed. Out of it came nothing but death, destruction, chaos, revolutions, notes and

conferences! But it did reveal to those who were willing to observe that if we could not import food from overseas we were in peril of death from starvation; that our economic life had become unbalanced; and that it was never likely to be resumed in the form it had prior to the outbreak of war. The Dominions of Canada, Australia and India, and countries such as Japan and China, realising the necessity, made every endeavour to hasten the process of their industrialisation. So, too, has Russia since 1917, with astonishing results. They imported machinery, learned how to use it, how to make it and maintain it; so we lost markets not only for the products of the machines but also for the machines themselves.

Now although our trade returns after the end of hostilities seemed to show a revival, it was in terms of pounds, shillings and pence only, not in *absolute quantity* of goods and services—the true criterion of prosperity. But we still had very considerable capital investments overseas from the income of which we could still purchase the food we needed and our raw materials. That explains how we managed to carry on for the twenty years, 1919-1939, with an obviously unbalanced economy; though sections of the population suffered very badly. Seldom has wilful waste been visited by such woeful want. While men talked of "Poverty in the midst of plenty," economists, who were described as "experts too technical to be understood by the layman," and to whom Adam Smith was outdated, learnedly discussed the "Quantum of total World Trade," quotas, exchange control devices and the like. (They are doing the same again in 1947!) Some sinister theories developed; there were more sinister actions. International Cartel agreements controlling production and prices of certain important commodities were made; the Germans showing special interest in rubber, petroleum, manganese, while the production of tin, copper, aluminium, and potash were definitely restricted—significantly enough. Governments began using their taxpayers money to pay men to burn their crops or dig them in. Locomotives were fired with wheat and coffee. The general effect of this scheming was to encourage the principal industrial countries of Europe

to increase their agricultural production, while the predominantly agricultural areas, such as the basin of the Danube and Denmark, sought to redress the balance by expanding their industrial production. We continued to live on what it was then fashionable to call our "invisible exports"—that overseas income; with appalling effects on our coal-mining, steel and ship-building industries. In 1914 we owned nearly half of the world's shipping, in 1922 just under a third, in 1934 a little more than a quarter! By the middle of 1932 one quarter of our insured workmen were without work; with no option but to stand on the street corners—hoping. Such is the disaster that overtakes a nation lopsidedly developed, and without enough soil to feed its people. The trade revival that came in 1934 was a revival for war: the National Socialists under Hitler assumed power in Germany in 1933. Even our overseas capital had to be sold out when we were again finally forced into the destructive activities of war for the six years 1939-1945; with it we had to buy the goods of destruction, munitions of war. So to-day we find ourselves in a world in which the principal agricultural countries have made tremendous strides towards becoming industrialised; our foreign credits all but exhausted; and our merchant navy . . .? Although at the moment of writing the political cry is "Export or die" it must be obvious that the opportunities for *international barter* which existed before 1914 are not likely to present themselves again. At least, not to anything like the same extent. Our principal overseas markets, at the present time, are Belgium, France, and India, the Union of South Africa, Australia, Canada, and the United States of America.

The Future

What are the future trends of our trade and commerce likely to be? That is anybody's guess. The general world tendencies at the moment are for governments themselves to enter the markets as higglers, buying in bulk, and using their taxpayers money to drive their own traders out of the markets. Not at all a healthy symptom, this; for it assists

the formation of monopolistic organisations covering world markets, as is the present case with food. Moreover, as a body of men, a government is no more likely to be upright, just and fair-dealing than any other body of men; and, at the worst, when governments lose arguments they are apt to use firearms; merchants usually go to another market. Most nations, too, are tending to develop their "self-sufficiency" plans so as to balance their internal economy to the greatest practicable extent; thereby rendering themselves less susceptible to the influence of external conditions. A perfectly proper thing to do.

For ourselves we may be able to develop special industries, or arts, or services, to pay for the things we must import to sustain a dense population in a limited space; if not, it seems we must face the alternative of encouraging about half our population to settle overseas. We could then feed about 23 millions on the 48 million acres now remaining for arable and pasture. Though from a strategic military viewpoint it would be a sound move to disperse the people here and strengthen the Australian Commonwealth by about 15 millions, and the Union of South Africa and the Dominion of Canada, each, by 5 millions, there is the greatest prejudice against the idea amongst those obsessed with the conception of this nation as a "Great Power." But however the problem may be solved ultimately, we are driven back to the realisation that we must obtain the Essentials of Life if we are to survive, and some of the amenities of life, if it is to be worth while. Although *Work* is the first of the Logical Bases of Life, work will not solve our problem or save us from starvation if we have not the soil to work upon.

II.—RELIGION

(i) Aspects of Religion

Religion we consider as the second of the Bases of Life. Man's curiosity concerning the natural phenomena of which he is a part prompts him to seek to explain the nature of life and death, of dreams and shadows, of thunder and lightning,

and the darkness of the eclipse. Their occurrence leaves him wondering and awed. Men, too, find it hard to conceive any personal finality in the long last sleep. Many believe the Ego, the soul, the essence of man must pass on to new experience, either in the physical body of another being or animal in this world, or it must pass on to another world. Moreover, confronted by all the wonders around him, birth and growth, flood and fire, and the tremors of the quaking earth itself, Man realises he is in the presence of a power and mystery mightier than himself. About the elemental grandeur of life and living and the universe so much may be conjectured, but neither primitive man knew, nor do we know. For all that we may project our voices through the ether, across the oceans, foretell the courses of the stars, hurl missiles a thousand miles, and in one mighty holocaust reduce a city to dust and its citizens to cinders, yet of Life's Great Mysteries we can still only say "I believe . . ." we are not yet able to declare "I *know*!" These things are accepted by men in faith and fear. Out of faith and fear come credulity and creeds and moral power. By primitive minds these mysteries are ascribed to the accumulated wisdom or malignant influence of their ancestors; by others they are assumed to be at the direction of a Supreme Being, Omnipotent, Omniscient, Omnipresent. In either case it is generally supposed the deities, or Deity, may be approached by prayer and propitiated by sacrifice. The wonderment and awe produced in men's minds by the mysteries of life and the universe give rise to the beginnings of barbaric religion, and to the natural philosophy of barbarians: it leads on to deism and ultimately to theism, for almost all the great religions of the world profess to be founded upon a revelation usually contained in sacred writings.

Three Broad Aspects

We see, then, that we may think of religion as having three broad aspects: (i) the philosophical, through which men seek a view of the universe; seek to know the unknown; (ii) the moral, which is primarily concerned with the direction of

the will; regarding "all our duties as divine commands," to use Kant's formula—though we apply it only to an aspect of religion, not to religion itself as Kant and the moralists appear to have done; and (iii) the theological, in which we seek to resolve the problem of the Divine nature, and the relation between God and man. This almost returns us on the first aspect; but not quite.

Our study, as it relates primarily to the citizen and his duties is therefore concerned with the second, the moral aspect of religion. It is the moral aspect of religion that most nearly touches our everyday life. From it we may obtain guidance for the conduct of our daily affairs; those standards of decency and fair play, that self-discipline that makes us regard the rights and susceptibilities of others, and that determination to pursue the right, so that we fulfil all our duties as though they were indeed divine commands.

The Christian ethic is based on the moral code of Mosaic Law, as modified by the teaching of Our Lord. He rejected the "traditional forms" of the Pharisees which overlaid the commandments given by God to Moses (Cf. Exodus 20 and Matt. 15, and Mark 7) including the idea of retaliation, retribution and physical violence. ". . . if any mischief follow, then thou shalt give life for life, eye for eye, tooth for tooth, hand for hand . . ." (Exodus 21, 23-24) stated the old Mosaic Law; retribution was to follow surely and in like measure. "But," says Jesus, "I say unto you, that ye resist not evil: but whosoever shall smite thee on thy right cheek, turn to him the other also . . and whosoever shall compel thee to go a mile, go with him twain." (Matt. 5, 39-41). Jesus was in fact counselling *self*-discipline, for "There is nothing from without a man that entering into him can defile him: but the things which come out of him, those are they that defile the man . . . out of the heart of men proceed evil thoughts . . . thefts, covetousness, wickedness . . . all these things come from within and defile the man." (Mark 7, 15 and vv. 21-23). Moral rectitude may be inspired by fear; that seems to have been the underlying idea of the Mosaic Code—but moral rectitude through faith is better. Such was the view coun-

tenanced by Christ who promised due reward to the meek, the afflicted, and the faithful.

The Degree of Civilisation

The degree of civilisation of a community, the distance it is removed from barbarism, the quality of its social development is measured by the sense and respect its members have for truth and justice, for life and for the person. In the most primitive communities their rules of conduct were founded on custom, backed by the force of public opinion. Woe to the man who returned to his village if he failed in face of the enemy; or to the man who broke the laws of hospitality, of which one day he might stand in need; or to the man who stole his neighbour's goods. On such the public opinion of the settlement visited sharp punishment; for there were no regular judges. But one step on and we find the tribal chief or the wise man or priest assuming the rôle of judge. At first there was no connection at all between the rules of conduct—the ethics—of a society and its religious beliefs. When, however, the priest assumed the rôle of judge, or stood at the right hand of the tribal chief, his influence as the propitiator of the spirits of departed men, and of spirits never yet embodied on earth, would be manifest, and a religious sanction would soon be applied to ethics. There is considerable moral power behind the doctrine of the transmigration of souls, the doctrine of the immortality of the soul, and the teaching that a man's life is the subject of judgment after death. All three of these views concerning life after death have been widely held; and they have served as sanctions enforcing obedience to the accepted rules of conduct of communities. The doctrine of the transmigration of souls related to human conduct seems to have had its origin in the East, passing through India and Egypt, from whence the Greeks brought it into Europe. It has been suggested that the question put to Our Lord by his disciples in St. John's Gospel, 9, 2., hints at it: "... who did sin, this man, or his parents, that he was born blind?" The immortality of the soul, Gibbon remarks, "was inculcated with more diligence

as well as success in India, in Assyria, in Egypt, and in Gaul" than in Rome, or in Greece; though we may recall that it formed the subject of the last discourse of Socrates before he drank the cup of hemlock—thus preceding Christianity by 399 years. Gibbon adds, "since we cannot attribute such a difference to the superior knowledge of the barbarians, we must ascribe it to the influence of an established priesthood, which employed the motives of virtue as the instrument of ambition." Cold morality probably never has been, and perhaps never will be, a really popular cry. It needs to be given an emotional content, tinged with religious fervour. So the judicious dispensation of rewards and punishments in the Hebrew eschatology was taken from it into the Christian doctrine. It constituted the human strength of the Church, and endowed the priesthood with special influence among believers. Even in these days of so-called "enlightenment" it may not be wise too readily to lay aside the idea of encouraging moral rectituted through faith. It was this strength and influence derived from faith and fear about the future that enabled the early Christian Church to claim that "priests are as much above kings as the soul is above the body." Indeed, this may not have been any idle claim. However, the ancient church was, as, indeed, the modern church is, a voluntary society. In such circumstances the effectiveness of its moral sanctions depends entirely upon the conscience of the believer. When the State sponsored the Church, giving the force of law to its decrees church discipline became a reality; and its priests acquired material power. Excommunication, for instance, in a State which enforced, or allowed, the penalties it entailed, was a very real punishment. Any one against whom it was directed was excluded from the solemn rites of the Church, and virtually outlawed from Christian society; in effect they might find their civil rights involved as well. The punishment may be as effective too in a superstitious age, or among the devout, without the operation of secular law. But to men content to forgo Christian society it has no real meaning. And it is to be doubted if such moral sanctions can have any value in an age such as the present, in view of the

satisfaction man seems to derive from the present state of his material knowledge. Ancient doctrine and articles of faith are jettisoned in favour of a test-tube analysis of truth, or a "new metaphysic." Some now assert that the problem of the Church is to construct a code of morals more adequate to "the highly complicated character of modern life." The truth is modern life is not different from life at any other time. Life and its purpose, and human relations, remain, at bottom, the same throughout time; no matter how artificially grouped and regulated. So also do the moral values which are founded upon truth and justice, goodness, mercy, charity and beauty. Moral values so founded are unchanging and eternal; they are the essential base of right conduct, and the discipline that comes from within. The problem of the Church then, is not to find a new code, but to find fresh and effective methods of implanting the old values in minds obsessed with the majesty, might and material power of man. Man is not lord of creation; his conceit deceives him. We must on that account recognise more fully than ever before that moral teaching is among the great duties of religion.

(ii) Church and State in Christian Times

From Palestine, the land of its origin, the Christian faith was carried to Alexandria, Constantinople, and Rome by travelling apostles, captured Christian slaves, wandering ascetics, and anchorites in search of a notorious isolation, such as the Syrian, Simeon Stylites, who expired on his column, sixty feet above the ground, after thirty years of pole-squatting. We cannot in our limited space trace in detail the astonishing history of the persecutions, the schisms, and the conflicts of the Christians between themselves and with the non-Christian civil authorities. We must notice, however, that Alexandria became the patriarchal seat of the Coptic Church of Egypt and Abyssinia, as Constantinople became the seat of the Patriarch of the Greek or Eastern Church, and Rome the seat of the Popes of the Roman Catholic church; all of which have since branched to produce new communions. It took over 400 years for the Christian faith to

reach the Atlantic seaboard of Ireland—about 16 generations of men; and the attempt to convert the barbarians of Britain was even later. The Venerable Bede does indeed refer to much earlier attempts to propagate the faith in these islands, but nothing lasting seems to have been achieved until the arrival of St. Augustine, at the instance of Pope Gregory I (590-604), in 597, when he established himself in the royal city of Canterbury.

The monasteries of Egypt, of the East and of the West, supplied a succession of bishops and men of learning who could command the respect of monarchs, not only as men of piety, but as able administrators and advisers. As Christianity spread across Europe, chiefly in a north-westerly direction, not indeed converting the whole of the rude, unlettered people, but establishing outposts and strongpoints, the general technique was first to convert the head of the realm, and then to persuade him to adopt the faith as the religion of his dominions. So it is not surprising to find men of the Church taking an active part in the temporal affairs of States, such as they were then; for not a few sought to combine with their spiritual office a measure of worldly ambition, thereby paving the way for an extension of the temporal power of the Head of the Church in the West—the Bishop of Rome. To tell the history of the two hundred and sixty odd men who have sat in the chair of St. Peter would be to narrate the general history of Europe; so intimately are the two histories linked. Till the fifth century the Bishop of Rome was generally recognised as the first among equals, but, in 449, Leo I, "The Great," claimed absolute supremacy on Scriptural grounds. The dispute was only terminated six hundred years later by the Great Schism of 1054, when the Western and Eastern Church mutually excommunicated each other. It was this Leo I (Pope 440-461), who met Attila, King of the Huns, on the banks of the Mincius, when he was invading Italy in 452. What passed between Attila and the "majestic old lion" will never be known, but Attila turned back from the gates of Rome. Leo not only had courage, he must have had a commanding presence, and possessed persuasive elo-

quence, for in 456 he induced Genseric the Vandal to moderate the outrages of his troops when they captured Rome.

Temporal Power of the Papacy

Of the popes who sought to strengthen the temporal power of their office we must first mention Leo III (795-816). On Christmas Day, 800, in the Church of St. Peter the Apostle in Rome, he crowned the Frankish King, Charles the Great (Charlemagne) with the words: "To Charles Augustus, crowned of God, the great and pacific Emperor of the Romans, life and victory." The Holy Roman Empire founded by that act included all modern France and part of Spain, a large part of modern Germany and most of Italy. It was to last, at least in name, till Napoleon created the Confederation of the Rhine in 1806: a thousand years. From this act of Leo, his successors during the Middle Ages claimed the right of Imperial coronation for the Papal office. Much strife resulted from this claim. On the other hand from the time of the Emperor Otto the Great (936) till the time of the Emperor Henry IV all the Popes were confirmed by the Emperor of the Holy Roman Empire. Gregory VII (born 1015, died 1085), better known as Hildebrand, however, put forward his claim for a Theocratic Monarchy, placing the Church above the temporal power. He desired to this end that all privilege should be reserved to the Papal office; that none of the offices of the Church should be in the gift of laymen, so that in the spiritual consecration of a bishop the pope himself would invest him with the lands belonging to his church. This brought him into conflict with the Emperor Henry IV, provoking the "Investiture Controversy." But for a while he made the Papacy the strongest power on earth. In 1076 he cited the Emperor to appear at Rome on charges of simony, sacrilege and oppression. The Emperor Henry replied at the Diet of Worms by declaring Hildebrand deposed. Gregory rejoined by excommunicating Henry and the bishops attending him. The German clergy gave way, and Henry did penance at Canossa, waiting in sackcloth, so it is said, for three days in the snow for the Pope's forgiveness. Gregory

VII also took steps to regularise the election of a Pope; confining the voting to the Roman Cardinals, and reducing the Emperor's part to that of formal assent. Through him the Church acquired a wider influence over the nations and the affairs of the time. The temporal power of the Pope extended downward through the hierarchy of the Church in a very real sense. Those he consecrated, and those whose election he confirmed, held, as Church lands, very considerable estates in the countries of Europe. In France, for example, under the Feudal System, the abbots and bishops, as temporal lords, set up their own courts of justice, and maintained their own armed retainers; and bishops, either by special grant or by usage, often combined the spiritual and political authority of the bishopric and county, ranking with the counts of France. In England too they exercised all the rights and performed the duties of large landowners in the Feudal System of tenure. By the opening years of the 13th century the Church of Rome had reached the zenith of its power in these islands. During the stay of Otho, the Papal Legate, some 300 Italians were installed in the most valuable livings in our abbeys and churches; preferments amounting, it was alleged, to some 60,000 marks per annum, a revenue greater than that of the Crown. About this time the Church was said to hold property amounting to three-quarters of the kingdom: though that figure seems rather high. But in any case its property was constantly being added to by those who hoped to make some amends for their past. It was to check this that Edward I passed the Statute of Mortmain, 1279. At the time of the Reformation the property of the Church in Britain amounted to one-fifth of the landed estates of the realm; and twenty-seven mitred abbots and two priors, as well as the twenty-one bishops, sat with the nobility in Parliament and preponderated over the temporal peers. We should explain that the idea of ecclesiastical representation here is due particularly to Edward I. In summoning the bishops to Parliament in 1295 the writs he issued expressly required the attendance of all archdeacons, and deans of cathedrals, with a proctor from each

chapter, and two clergy from every diocese. But they displayed no great eagerness to take part in Parliamentary proceedings; they sat apart, and refused to vote supplies save in their own Convocations. The Archbishop of Canterbury, Winchelsey, produced a bull by Pope Boniface VIII prohibiting the levying of taxes on clergy in all countries by princes. Edward I, in 1297, replied to this by outlawing the clergy in a body, on the ground that if they would not contribute to the support of the State they should not enjoy the protection of the State. These contests between the ecclesiastical and civil power continued throughout the 14th century. Perhaps, in the light of subsequent history, the special interests of the Roman Catholic Church would have been better served had the clergy then not been so anxious to preserve their position as a privileged body. The Church was badly shaken by the teaching of Wyclif (about whom we shall speak later) in 1381; and such action as it took was mainly defensive. J. R. Green, in fact, suggests that both Cardinal Morton (1420-1500) and Archbishop Warham devoted themselves to the Royal Council-board with the simple purpose of preventing the pillage of the Church estates.

God and Mammon

On the Continent especially, the Church, in its desire to increase its influence over the princes of the earth, and its authority over their subjects, immersed itself in the profane concerns of burghers and monarchs. It attempted to serve God and mammon: mammon principally. Wealth and worldly pleasures attracted popes as well as lesser ecclesiastics. But notice this: when we say the Church we really mean the *human* part of its hierarchy, especially the higher levels. The evil men do on the grand scale is incubated in the high places. This is as true of political and economic life as of religious life. War, tyranny, oppression, the sin and corruption of communities, are hatched on high; and history shows that the purifying fires are as often lit from below. This was the case in the 16th century when corruption had penetrated every layer of the hierarchy of the Church, from Papal office

down to parish priest. Cardinals' hats were intrigued for, and bought by men who were rather politicians than ecclesiastics; the red hat came to be a reward for political services, instead of a symbol of service to God. The pallium of an archbishop cost between 26,000 and 30,000 florins. But though not the original cause of the Reformation, it was the sale of indulgences in the market places of Europe that proved to be the spark that kindled the purifying fire of 1517. By Papal Bull purgatory had long since been claimed part of the Pope's domains and included in his jurisdiction. Such was the corruption of the faith that caused Martin Luther, on the evening of October 31st, 1517, to attach his ninety-five theses to the church door at Wittenberg. The movement to reform the doctrine and practice of the Roman Church was carried into Switzerland by Ulrich Zwingli when he took up his appointment as preacher in the cathedral at Zurich in the opening days of 1519; though Zwingli claims not to have acted in concert with Luther. Martin Bucer, in 1528, introduced it into Strasburg. The movement spread. Forty years after Luther nailed his theses to the church door, Switzerland, the western part of Germany, Denmark, Sweden, Scotland and England had seceded from the Church of Rome, leaving only Italy and Spain to her; France remained yet in the balance.

In England the Reforming fire had been smouldering since the days of John Wyclif (1325-1384). He denied the priestly power of absolution, and repelled the doctrine of transubstantiation in the spring of 1381. He was the first Protestant. During his life, in 1353, Parliament enacted the Statute of Praemunire prohibiting the admission or execution of Papal Bulls within the realm; and the Statute of Provisors denying the right of the Pope to dispose of benefices. So under cover of the action of the simple priests to purify the doctrine of the church, political action was taken to curb the temporal power of the Papal office. But nothing very real was achieved till Henry VIII, on the advice of Thomas Cromwell (later Earl of Essex), nearly 200 years later, in 1534, by the Act of Supremacy, for political as well as private reasons

assumed the title of "the only supreme Head in earth of the Church of England." That was the act that finally sundered the Church of England from the Church of Rome, and ended the temporal power of the Pope here. Feeble, though bloody, attempts were made later to restore the situation; but they were sparks from dying embers. It is to be noticed that the Act of Supremacy provided that the king ". . . shall have and enjoy . . . as well . . . all the honours, jurisdictions, authorities, immunities, profits, and commodities to the said dignity belonging . . ." Particularly the profits. Even Hallam (*Constitution History of England*) who suggests that corporate property stands on a different footing from that of private individuals, recognises that Henry was abundantly willing to replenish his exchequer by violent means, and avenge himself on those who gainsayed his supremacy. The lesser monastic foundations were dissolved two years later (1536), and the greater abbeys in 1539. Their properties and revenues were vested in the Crown. The good passed away with the bad.

The Monastic Orders

We must include in this sketchy account of the relations between Church and State some reference to the monastic orders and the part they played in the life of the country wherever they settled. Although much has been said against it; and although some of the orders clearly failed in their high purpose; the country at the time of the suppression of the monasteries was far from desiring the complete downfall of the monastic system.

Monachism, as a mode of life, is not peculiar to the Christian religion; it was practised by Buddhists before the Christian era. Among Christians it was first instituted in Upper Egypt in the fourth century; and so far as Western monasticism is concerned it may be considered as dating from the rule promulgated by St. Benedict about 529, when he was at the monastery he established at Monte Cassino, near Naples. His rule imposed manual as well as mental labour and spiritual exercise; but he wisely forbade self-torture.

Previous to this the monks had lived without any universal rule, though rules existed, and many gave themselves up to all sorts of excesses in the name of piety. But, as Duruy, the French historian, puts it: "The Benedictines united agriculture to preaching, the copying of manuscripts to prayer." From time to time various orders were founded; some named after their founders, others after the place of foundation: we cannot possibly trace their ramifications here. What we do want to emphasise here is that most of the monasteries of the Middle Ages were centres of Christian peace and worship, of culture and industry, of hospitality and charity, standing as beacons in an unenlightened world as mission centres, and as places of refuge as well for books and learning as for men. Within their walls were preserved the germs of dormant civilisation. Schools were attached to them, and not the weakest link between Church and State was the education and training given to many of the men destined to control and administer the affairs of State. Travellers enjoyed their hospitality; the sick were cared for in their hospitals; of their generosity they supplied the need for workhouses and a poor relief system. It was not till sixty years after their suppression that Parliament had to enact the Poor Law of Elizabeth's reign. In the monastery workshops all kinds of industry, craft, and art found employment for labourer, craftsman and artist. Traces of their work on the land survive in the precincts of Peterborough Cathedral in the names: The Garden, The Orchard, the Vineyard. We are told that it was a monk who served as gardener to Henry VIII, and it was he who first introduced the Peach into England in 1524; as well as the Apricot from Italy.

The Statutes of Supremacy and Uniformity, as applied by the Ecclesiastical Commission set up by Elizabeth in 1583, brought the Church of England completely under the control of the Crown. There were reactions, of course. In the spring of 1687 James II issued a Declaration of Indulgence, granting liberty of conscience and suspending the execution of all penal laws concerning religion. It was the refusal of Archbishop Sancroft and six other bishops to read a second declar-

ation in their churches, and their consequent committal to the Tower, which, coupled with other events, cost James II his throne. His successor, William III, also came into conflict with Sancroft of Canterbury, when he and eight of the bishops refused the Oath of Allegiance. They were removed from their sees in February, 1691.

Since then the supremacy of the State has not been doubted. The Act of Toleration of William's reign exempted "their Majesties' Protestant subjects dissenting from the Church of England from the penalties of certain laws"; and even the rites of the Church were made the subject of Parliamentary sanction by the Public Worship Regulation Act, 1874 —"A Bill to end Ritualism," as it was then described.

(iii) Individualism and the Christian Ethic

If we would live together in a community there must be a code of conduct accepted by us all, otherwise some members of our society may destroy the purposes for which we have banded together. If, too, we profess and call ourselves Christians, what can be more obvious than that we should adopt the teaching of Our Lord Jesus Christ as the basis of our ethics: the Christian Ethic.

Before we can proceed very far with this discussion we must define our terms, for there are many pitfalls. First as to *individualism*. By individualism we mean that theory of social life which favours the free action of individuals. Perhaps we ought to say the freest action possible; for with reference to a group of social beings we must consider all things relatively. Now it has been said against us individualists that our way of life leads to chaos, strife, wasted effort and self-seeking. But indeed that is not true, as we are about to show. When we speak of a social theory favouring the freest action possible we are thinking of the individual and his works in relation to others of the same group, large or small, a nation or a family; though not, for the present, in the same way as the economist does. As individualists we believe it is possible to live together according to a code of conduct which will confer on each one of us the greatest

possible degree of personal liberty, civil liberty, political liberty, and liberty of action, speech and thought; the fullest independence and the power of self-determination. We believe in freedom of the person and of the spirit. Moreover we believe such a life to be in complete accordance with the Christian Ethic, and that our code of conduct is to be found in Holy Writ.

The New Testament

Now as to the Christian Ethic. For it we obviously turn first to the New Testament. But a little care is needed because men have not hesitated to dispute about matters of translation, authorship and the like. Since all this has more than a passing interest for us let us reflect for a few moments on the New Testament. It consists of various writings, the work of several men (about ten); and they were composed in different places, and at different times. As far as we know none of the accounts given are contemporary with the life of Our Lord. For some time His sayings were passed on by word of mouth before being recorded in permanent form. It is generally thought the earliest record of the life and words of Jesus is contained in the Gospel according to St. Mark. This is attributed to one John Mark (John whose surname was Mark) who is supposed to have written it between 60 A.D. and 70 A.D. He was a companion of St. Paul; and it is thought unlikely he ever saw Jesus.

St. Matthew's Gospel, which appears first in the authorised and revised versions of the English Bible, was not written, many think, until about 80 A.D., and then by an unknown Christian Jew of Palestine, who may have been a tax-gatherer and a man of some position. For his account he is said to have used St. Mark's Gospel, a document styled Q by another writer, and some other sources of information.

The third gospel is reputed to have been written about 85 A.D. by Luke, "the beloved physician," another companion of St. Paul. Dr. Charles Gore describes him as an educated man of literary habits. Eusebius recorded a tradition that Luke was a native of Antioch in Syria.

About the fourth gospel—the Gospel according to St. John—there has been much dispute, both as to its historical value and its authorship. By some it has been attributed to St. John, the Apostle and Evangelist, son of Zebedee and Salome, who is known as the "disciple whom Jesus loved." He is said to have remained in Jerusalem after the Resurrection and to have been there at St. Paul's second visit. It has been suggested that this gospel is a spiritual interpretation of the life of Christ rather than a biography. It was written perhaps, about 90 A.D.

It will be well for us also to review the epistles. First, not all the epistles attributed to St. Paul are certainly his work. The epistles accepted as authentic are those to *The Romans*, a doctrinal collection of letters written from Corinth about 50 A.D.; *The Corinthians*, written by Paul to the Church in Corinth, about 53 or 54 A.D.; *The Galatians*, written soon after 55 A.D., and not later than 59 A.D.; and the *First Epistle to the Thessalonians*.

Joseph Renan, the French scholar who wrote *St. Paul* in 1873, also accepted the *Philippians* and the *Colossians* with the *Epistle to Philemon*, supposed to have been written by Paul during his first imprisonment at Rome, or during his imprisonment at Caesarea. Other scholars and critics have expressed their doubts about these, as they have done about the *Ephesians*, and the *Second Epistle to the Thessalonians*. Both the *Epistles to Timothy* and the *Epistle to Titus* are considered apocryphal; though some regard them as the "Pastoral Epistles" of St. Paul, written not earlier than Nero's reign.

The *Epistle to the Hebrews* was written before 70 A.D., probably about 63 A.D.; but Paul's authorship is disputed. Some think it may have been inspired by him and translated from Hebrew to Greek by St. Luke. Yet others suggest its probable author was Barnabas.

Of the remaining epistles that of *James* is reputed to have been written by St. James "the Great" or "the Just," also described as the "Lord's brother." He may have been Bishop of Jerusalem till about 62 A.D. The *First Epistle of Peter* is

generally taken to be genuine; but the *Second Epistle* is doubtful. The *Epistles of John* were ascribed to many of the early Fathers, including Irenaeus, to St. John the Apostle, the supposed writer of the fourth gospel, who met Jesus at Bethany. Finally the *Epistle of St. Jude*, which is identical with the Second Epistle of St. Peter, is treated as of doubtful authenticity. It is even doubtful who Jude was; he makes various claims in his epistle.

Such are the "original documents" which have survived through the centuries. It is important to take into account the date and as far as possible the authorship when we consider them with reference to the doctrine they set forth. It may well be that in interpreting the teaching of Christ the apostles were influenced not only by the events of the life of Jesus but also by the events subsequent to his death. In the year 64 A.D. Rome was burnt, the Christians massacred and it is believed that both Peter and Paul themselves met violent deaths. The authentic epistles were written before that date; the gospels probably all after it. But all the writers lived in a world of crisis and persecution. In their time it was Nero's amphitheatre, as it was Elizabeth's rack in Hooker's, and the concentration camp of Western "civilisation" in our own time, that counselled prudence and discretion in men not in favour with the ruling political party or faction. In addressing the "faithful brethren" at Colossae the writer of that epistle fully reveals this when he advises them "Walk in wisdom toward them that are without, redeeming the time. Let your speech be always with grace, seasoned with salt, that ye may know how ye ought to answer every man" (Col. 4, 5 and 6). The whole passage is a warning against the ill-disposed outside the congregation. "Seasoned with salt": how like *cum grano salis* that is. So with that in mind let us see what these men have to say about Christian living.

If we turn to the Epistle to the Galatians we find Paul engaged rebuking the brethren for perverting the gospel of Christ, just as Christ had to rebuke the Pharisees and scribes for "teaching for doctrines the commandments of men"; for laying aside the commandments of God and holding the

traditions of men (Mark 7, 7 and 8). Paul here points out to the brethren that they are making themselves bondsmen to the law of men—to the covenant from Mount Sinai, "which gendereth to bondage," instead of making themselves freemen in the Spirit. "Stand fast, therefore," he says, "in the liberty wherewith Christ hath made us free, and be not entangled again with the yoke of bondage." (Gal. 5, 1). He continues (v. 13) "For, brethren, ye have been called unto liberty; only use not liberty for an occasion to the flesh, but by love serve one another. For all the law is fulfilled in one word, in this: *Thou shalt love thy neighbour as thyself.*" The whole point towards which Paul is moving is this: the individual as a Christian person is capable of conducting himself with respect to his fellows without the intervention of man-made law, his conscience (the Spirit) is his guide. "If ye be led of the Spirit, ye are not under the law." There is no ambiguity about Paul's words here. He leaves us in no doubt at all what he means by "the Spirit" and "the flesh." He defines the works of the flesh by citing every outrage known to the criminal calendar, from murder to drunkenness and "revellings"; and tells us, "But the fruit of the Spirit is love, joy, peace, long-suffering, gentleness, goodness, faith, meekness, temperance: against such there is no law." And the fruit of the Spirit can be had only if we accept the commandments of God. That these are the essentials of the Christian code of conduct Jesus himself confirmed when he rebuked the Pharisees, and again when the rich man wanted to know what to do to inherit eternal life (see Mark 7 and 10). The whole conception rests upon the idea of self-discipline, forbearance, love and respect towards others: "for the laws of well-doing are the dictates of Right Reason," as Aristotle and Hooker remind us.

The Individualist

Now where do we stand as individualists? We believe especially in the sanctity of the person; for is not each one of us created in the image of God? We believe in freedom of the person and the conscience; for are we not the children of

promise? And we reject utterly the bondage and misery inflicted by men upon their fellows in the name of law as being contrary to the Laws of God. But we know the Rights of Man cannot be realised until he also recognises his responsibilities. And we know, too, that man will not attain to his highest development, and hasten the day when Christ's kingdom shall be made a reality on earth, bringing peace and goodwill to men, until there has been developed in all a conscience, and it is brought to maturity of judgment, so that the discipline regulating our lives comes from within. Until then we must rely for the preservation of the community on the discipline imposed from without: upon man-made and man-imposed law. As St. Paul says, "the law was our schoolmaster to bring us unto Christ, that we might be justified by faith. But after that faith is come, we are no longer under a schoolmaster." (Gal. 3, 24 and 25). In the teaching of Our Lord is contained all the instruction and inspiration we need to solve the problems of living together; particularly the problems of the passions. From it we learn how men may be free, fully to enjoy life, while yet gaining from, and contributing to, the advantages of a corporate existence with their fellows. "He that soweth to the Spirit shall of the Spirit reap life everlasting." That, then, is the reason for regarding religion as the second of the Logical Bases of Life.

III.—EDUCATION

Character and Capital

We, human beings, are atavistic creatures. If the opportunity presents itself we tend to revert to what our distant ancestors were. The truth of that is borne out by the reports we receive from time to time of the behaviour of children, originally lost or abandoned, who have been nurtured by wild animals. Recently a boy of about 15 was captured who had been running with gazelle in Africa. About twenty years ago some herdsmen found a boy about ten years old in a wolf's den near Miawana, about seventy-five miles from Allahabad, to which they took it. Reports exist of other and

earlier cases. In nearly every instance the children progress on all fours, living on herbage—grass and moss, and lapping water. The only sounds they utter resemble those of the animals they have lived with; as do their general habits. The fact is we are very much the creatures of circumstance; so far we have "evolved," the rest is due to "cultivation" over an extremely long period of time. Whatever a man is, or becomes, is only partly due to himself, the rest is due to his surroundings, and to what is implanted in his mind, particularly during his years of growth, by those about him. In fact a man is what he is because of his environment. John Locke in his *Essay on the Human Understanding* reached a similar conclusion, though in a very different way, when he considered the origin of ideas in the child. ". . . a foetus in the mother's womb differs not much from the state of a vegetable . . . For since there appear not to be any ideas in the mind before the senses have conveyed any in, I conceive that ideas in the understanding are coeval with sensation. . ." That much less is due than is generally supposed to inherited factors is abundantly clear from the histories of twins collected by Francis Galton; though, as he points out, the inherited factors must not be entirely disregarded.

Man as Inheritor

Now whether he likes it or not a man first sees the light of this world as a new and additional member of an already existing community. He has no choice but to inherit all the damage that has been done and all the good that has been achieved. The existing members of the community, for their part, always desire that their way of life shall be accepted. They have their codes of law, of honour, of morals, developed as the result of long years of living together, and every new member of the society must accept them if he is to remain within the community; for no community can long continue its communal life if it contains any considerable proportion of malcontent and discordant elements. Practical experience of life reveals that no man, when living in association with others, may exercise absolute and unrestrained

freedom of action, or even of speech. If one is not to make life "difficult" for himself and those around him there must always be some restraint, some consideration and self-discipline; there must be developed a sense of moral and spiritual values, too. Only so is it possible to become possessed of that character and conduct which, in all circumstances, is dependable and predictable. Now before all else the highest interest of a community, and indeed of the world at large, demand the production of dependable and reliable persons. So every community, no matter what the stage of its development, devises some sort of system, or a system of sorts, to implant in its younger members those qualities which appear to be most desirable—according to its lights. It sets about training its children in the way they should go; it "cultivates," or if you prefer it educates them, to fit them for life in the community.

Of education, then, we may say that it is the imparting of, more or less, systematic instruction with a view to producing people "easy to live with," that is, good citizens; and that it is also the passing on in concentrated and readily assimilated form the accumulated knowledge and wisdom of our ancestors to help the new-comer to make his way through life. Let us deal with these aims separately.

Character

There can be no doubt that of the two the formation of character on which depends the production of good citizens, is the more difficult of the educational aims; and the one in which the greatest failures appear. Almost everything depends on the personal quality and example of the educator himself. He has, before he can succeed in his task, to cultivate in himself those qualities of humanitarianism which call forth the respect of men; that self-discipline and restraint which marks the leader and true companion; that tolerance and understanding which, in the respect it reveals for fair-dealing, justice and truth, commands high regard. The preceptor has, in short, to make himself a thoroughly dependable person. Yet how difficult this may be! For this cultivation

must result from and in natural growth; it must bear no trace of affectation; it must display the vitality and virility of a wild flower, not the languid ostentation of a hothouse plant. All this is of the greatest value and importance because the bearing and example of the teacher is the first hand experience of those under instruction. Apart from this first hand experience the teacher himself provides, he will have, of necessity, to make much use of second hand experience. This is derived from the lives of great men: from the inspiration of their minds, from the achievement of their hands. The material lies enshrined in history, biography, *belles-lettres;* in fact in the world's literature, in the great works of art, in great texts of stone and timber; and it is provided by the great masters of music. But great discrimination is required if our high purpose is to be truly served. Not all men who enjoy high popularity and are accounted "great" by ordinary standards, who have propounded a system of philosophy, who have wielded a facile pen, a cunning chisel, or possessed the delicate touch of the brush are inspired or a source of inspiration. Character may most readily be cultivated through culture—but culture is not and must not be confused with character.

Cunningham in his *Western Civilisation* observed, "Free play for the individual is the distinguishing feature of our present civilisation and is alike its glory and its danger. Hence the problem of the age is education. . ." Free play for the individual certainly was the distinguishing feature of our civilisation in 1910: we regret it is not longer so. But the problem of the age is still education—education which shall once again produce men and women who understand and appreciate the dignity of human nature, and the sanctities of the family and home. In this field we must seek inspiration from Holy Writ, inclining to the Religion of Humanity. We need not concern ourselves too much with the history of Israel, and the divergencies of Apostolic doctrine. We must rather seek the Truth and the Light in the teachings of the Great Master. Here in the process of the formation of character we must remember also we are not concerned only

with codes of ethics; we must "liberalise" the child's course of education so that it acquires a breadth of outlook and feeling. In all this we are dealing with the things of the Spirit; not indeed with the simple intention of producing "idealists," but with the purpose of forming dependable character and relating it to the practical in life; that is, giving reality to life. So much then for the first part of our task, which we have described as the production of people "easy to live with": good citizens.

Wisdom and Knowledge

The second part of our task we have already said is to pass on in concentrated and readily assimilated form the accumulated knowledge and wisdom of our ancestors. This aspect of education may well be thought of as the reinvestment of "Capital" in immaterial form. Elsewhere we have defined what we mean by "Capital" in the economic sense; here we use it to signify the accummulation, conversion and use of wit, wisdom and knowledge to enhance our spiritual and material well-being as individuals and as peoples of the world. We owe much, and in common justice must acknowledge our debt, to the "Capitalists"—the accumlators of Capital, material and immaterial. Were it not for them we would all be in exactly the same state and condition as Prehistoric man. We would still be rubbing sticks together to make fire, instead of producing it with atomic piles. Nothing would have been added to the enjoyment and comfort of life. Perhaps there is room to doubt whether we, in our advanced state of "civilisation," with our short supplies of the essentials of life—food, fuel, clothing and shelter—do really enjoy life more than Primaeval man did when he hunted and captured baboons with a bolas. But at least, if we do not find any greater enjoyment in life now, we can look back to the first fourteen years of this century and say with confidence that *then* they enjoyed a fuller life and found greater comfort and pleasure in life than their predecessors did. And that enjoyment of life was made possible by the wise use of Capital, both material and immaterial.

As instructors of the young, the new-comers to the community, our second task is to endow them with this immaterial Capital so sparing them the laborious beginnings of their ancestors; and making possible for them, we hope, some advance towards further material comfort, which shall lead on to a yet keener appreciation of life, and leave them with the time and the inclination for contemplation of the higher spiritual values. But in this second task the educator is concerned especially to fit his pupil for his own individual and personal life, as distinct from his life as a social being. It must not be rashly supposed, however, that we are suggesting life can be divided into water-tight compartments. This division is merely to give us, as educators, a clear view of the range of our work. Whether the child is to be ultimately a carpenter or an astronomer his primary equipment is the same; and we do not usually begin to add the specialist tools to its working kit until it has completed the first six or seven years of its school life. What this specialist equipment will be is decided, in part, by the child's capacity and inclination—for we do not overlook the fact that factors quite beyond the child's control may operate to frustrate its intentions.

Now it seems necessary to emphasise that this primary equipment—indeed, this minimum of equipment—is common to all; and, moreover, that it is *all* the majority of the population will ever be capable of using with any degree of confidence or success. We make that remark as questioning the wisdom of loading every child with so many tools it is neither likely to need, nor capable of acquiring the skill to use. Surely it is better to perfect the skill of the child within a limited range than that it should become "a Jack of all trades and master of none." But this must not be used as an excuse for withholding from a child any mental equipment it has the ability to use.

The Three R's

A few words may now be said about the nature of this equipment. Most of us are so anxious to push on to "more important" things that we fail to give sufficient attention to

the essential tools of our trade. They are three—the so-called "Three R's." Without them the accumulation of knowledge and wisdom is next to impossible; at the best it is extremely limited: but with them, what are the limits? . . . Once the child has the ability to use these tools freely and with confidence it can begin its course designed to develop its power to think and reason systematically; but everything depends on the skill it acquires in the use of these three tools. The raw materials for them to work on are provided by the whole range of man's discover and invention; and by the *Geo* studies, which we use as a general term for all branches of study ranging from worms to worlds, from geometry to geography, and from agriculture to astronomy. We are here concerned to help the child obtain in the short space of about ten years of school-life a range of practical knowledge and experience built up by countless minds over an extremely long period of time to help it on its way through life. That is true, at any rate, for the great majority of children. Of necessity much of this knowledge and experience must be rended down into highly concentrated and readily assimilated extracts. Indeed a good deal of it is for many of us just a working formula. There is some advantage in that; for many minds capable of applying a formula may not be able to comprehend the significance of the great truth it expresses. Thus many have the advantage of applying these truths though they may not fully understand them, or even understand them at all. We ought not to be shocked by the realisation of that. It is better to apply truth by rote than not at all. After all many of us enjoy travel by car though we have only the vaguest idea of what is going on under the bonnet. But, like the garage engineer, the schoolmaster must be aware of what is going on under the bonnet—or rather the school cap. So the success of the master in this part of his task depends very much on his own faculty for acquiring knowledge and profiting by actual experience, and on his developing that wisdom which enables him to apply his knowledge practically and critically to life and the art of living. He must continually work to arouse his intelligence to a comprehension of the

great truths of life, of nature, of the exact sciences, as well as of the arts. But let him mark this: his purpose is to stimulate and guide the enquiring mind of the child; to act as counsellor and friend as the child gains new experiences, and proceeds on its brief voyages of discovery. As much as possible of the young community member's experience should be first hand; only the minimum of it should be acquired second hand.

The Aim of Education

Beyond that we have nothing to say here of method, we are concerned only with purpose. So often has the question "At what should education aim?" been asked in the past, to be answered by some "The good of the individual," and by others "The good of the State," that the time seems to have come when it ought to be said the answer is neither exclusively. While at the root of every system of education lies the idea of training every child so that it may be capable of living its life as an independent unit at the general level attained by the community it is born into, there is also on the part of the community, as a whole, an insistence that the child shall be made an acceptable member of the community, as a measure of community self-preservation. From time to time undue emphasis has been placed on education for the good of the State, as, for example, in ancient Sparta, or under the totalitarian regimes of recent years. Such education is always illiberal and unbalanced. Our aim must be to resist any pressure in this direction, and to provide our charges with a properly balanced course of instruction. If we by example and encouragement lead the young individual to develop a dependable Christian character, animated by goodwill, capable of a liberal outlook, contemptuous of the false and mean, discriminating and reasonable, while at the same time we endow him with as much as possible of the available wealth of human knowledge and experience to fit him for his life and life with others, we shall have produced an upstanding individualist capable of living in civilised society. A society of such individuals should be proof against the

treachery of tyrants, the machinations of Machiavellians, and the wiles of foolish Utopians; and yet each of its members should be able to get the fullest enjoyment from life.

IV.—POLITICS.

(i) Forms of Government.

"It is of no little consequence, O citizens, by what principles you are governed, either in acquiring liberty, or in retaining it when acquired," wrote Milton. Indeed, the principles by which we are governed seem to us to be the fourth of the Logical Bases of Life; so we now consider the forms devised by men to order relations within the body politic.

We have already pointed to the fact that in Great Britain the sovereign authority of government resides in a trine authority: the legislative, which makes the law; the administrative, which puts the law into operation; and the judicial, which interprets and enforces the law. That is the general pattern of the system of every government. Every government is a structure of these three distinct, yet intercommunicating, and sometimes interlocking, pyramids of rule and control. Now although all governments are built up on this general plan in final form they differ so much as to obscure completely the common plan on which they rest.

The Constitution

The first thing that may influence the form of a government is the national Constitution; though, as we shall see later, this is not sufficient in itself to fix or determine the form of a nation's government. Where the Constitution is written, as it is in most foreign countries, it is a formal document setting out the general principles which the community accepts for its internal administration defining the functions, powers, limitations, and relations of each of the three parts of the sovereign authority of government and their constituent parts. In Great Britain the Constitution is unwritten, and hence generally vague and of undetermined

limits. It is sometimes said, for example, that hereditary monarchy, government by party, and the responsibility of ministers to the country are fundamental constitutional maxims. But as to the hereditary character of the monarchy the Act of Settlement, 1701, clearly makes conditions as to the possession of the Crown, and leaves Parliament, as representing the nation, the final arbiter as to who shall occupy the throne. So the Crown is hereditary in a limited, but not in an absolute, sense. As to government by party there is no statute which says anything about it, and it is doubtful if it has ever been the subject of an opinion in the Courts of Law. In fact, as we understand the term, party government cannot be traced any higher than the last decade of the seventeenth century; and the organisation of a political party enjoys no higher status than that of any other association of citizens. And the birth of the idea of ministerial responsibility, collectively, can be traced only to the beginning of the eighteenth century, or at the earliest to Sir William Temple's experiment, 1679. Of course ministers, individually, were in former times liable to impeachment; but the procedure is now obsolescent. These things we mention to emphasise that the British Constitution is subject to gradual change in the course of years; it has not the fixity of a written Constitution, but neither does it appear to require such exceptional means to modify it. Essentially the British Constitution consists of an unwritten body of custom and precedent accepted through long practice, and of principles embodied from time to time in certain authoritative acts and statutes, as for example in Magna Carta, the Bill of Rights and the Habeas Corpus Act. Indeed, as Professor Adams points out in his *Constitutional History of England*, "the House of Commons, as the supreme authority in the State, is the constitution making body, and every other authority is bound by an act of Parliament, even though it changes fundamentally the powers or functions of any part of the State machinery."

From what has been said above it will appear that the Constitution is in the nature of a formal statement of the terms of a contract made between the people and any govern-

ment set up by them. But it is only proper that we should point out that the idea of the existence of a contract between the governed and the government has been much disputed; as also have the consequences of any such contract. However, we cannot here follow the arguments of the mediaeval theologian-lawyers, and such men as Hobbes on the one side, or of Milton, Locke, Rousseau on the other. Whatever may be said by the "absolutists" to the effect that once people have set up a government they have for ever alienated their sovreignity does not alter the fact that we find Constitutions which definitely provide for the resistance of the people if the government violates their rights. As an idea it was carried by the Puritan migrants to the New World, and appeared in the famous Declaration of Independence we have already quoted (p. 2) ". . . that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it, and to institute a new government, . . ." And the French Constitution of 1893 provided: "When the government violates the rights of the people all forms of resistance and insurrection become the sacred right and duty of all sections of the people."

Representative Government v. Despotism

This all points to one conclusion: if a government is not supported by the will and consent of the governed, it must maintain itself in office and power by force, open or concealed. So much is admitted by political writers from the time of Aristotle, who agree that a monarchy or an oligarchy may be governed by popular consent or by force; but a democracy (unless the name is misapplied) can never be anything else but rule by popular consent. So no matter how else we may care to classify governments there are for all practical purposes only two essential forms: the popular representative form, and the despotic form. Indeed, in the modern world, this is truer than ever; for our choice is now limited to either the form of a representative democracy or

the form of a despotic oligarchy. Whether the State be called a monarchy or a republic is not now a matter of high significance since the real authority lies in a Cabinet, or Grand Council, which holds office either as the result of popular election, or because it comands coercive force. Italy under the Fascist regime of Mussolini was nominally a monarchy, for it had the figurehead of a king; and Nazi Germany for a short while at the beginning of the regime was a nominal Republic under President Hindenburg. But both States were in reality fair examples of the principle known as Caesarism, in which the rule of an autocrat (Gr. *autos*—self, *kratos*—might) or an autocratic body is *supposed* to be sanctioned by the consent of the governed. The ancient exposition of Aristotle of three pairs of converse types of government, i.e., Monarchy and Tyranny, Aristocracy and Oligarchy, *Politia* or Commonwealth and Democracy, is defective because of the limited political experience of his age. He lived in a small city state in which most of the manual labour was performed by slaves without political rights.

The very name democracy (from Greek *demos,* people), implies rule of the people, by the people, for the people; and in ancient Greece the citizens did in fact assemble in person taking part in the discussion of proposed legislation and voting upon it. Theirs was direct representation; but manifestly in a nation numbering some millions of souls such direct representation is impracticable, so resort is had to indirect representation. That is, the enfranchised citizens elect some of their number to carry on the government of the community on their behalf and for the general advantage of the whole. But whether the representation is direct or indirect the same essential conditions must be observed if the democratic form is to be preserved: every member of the community must be permitted freely to express his opinion, and allowed to record his vote without any fear, or hope of favour from the consequences of his act. It was to remove that fear and partiality that the secret ballot was introduced by the tribunes of the Roman Empire.

Since it is fashionable in these times for every kind of

Government to claim to be "democratic" it may well be asked, What is the test of democratic government? It is this —How far up the State Pyramid of Rule and Control can the Voice of the People—the whole mass of the people—be heard? Can it be effectively heard at the coping? Can the Will of the People vibrate and shake the coping, or, if they will it, change or remove the coping? In fine, is the government controlled by the whole or the great mass of the citizens? If the Pyramid is so constructed that it contains sound proofing devices at some level, or shock absorbers, so that neither Voice nor Will can penetrate in full volume and force to the highest levels of the State Pyramid the State covered by it is not a democracy. Clearly then we may have, as we have at the moment, a monarchical democracy, or a republican democracy as in Eire or the United States of America. We might even have an oligarchical democracy if the ruling few were chosen in accordance with the principles we have just mentioned, and for the general good of the State.

On the other side of the picture we find every kind of government no matter by what name it calls itself, which maintains itself in office and power through the use of physical force and the promotion of fear. Apart from the regular forces openly maintained by governments such as military and uniformed police, they employ concealed forces such as secret political police, spies and informers, planted in every local community, even in streets and blocks, constantly to watch the movements of citizens, listen to their conversations, censor their correspondence and make reports on all these matters which are recorded in personal dossiers. In short such despotic governments rely for their security on all those qualities which are most despised and despicable in mankind. All opposition is crushed, the more active participants in opposition being placed in strict confinement or judicially murdered; for it is rule by the torturer, the executioner and the gaoler.

One of the notable features of all such governments is their great anxiety to impress all quarters with the legal character

of their acts. When their opponents bear names that are known they are accorded a "state trial" at which is produced their "confession" that they are guilty of "sabotage," or "espionage," or "having relations with a foreign power." Others are just "liquidated," to use an expression of the time. These despotic governments even go to the length of holding elections; but there are no opposition candidates. It is possible to register opposition by spoiling the ballot papers, but it is a risky proceeding since they can be traced to the voters.

Similarity of Systems

Looking at them in detail we can find no material point of difference between the *system of* Government set up by the Fascists, the Nazis, the Falangists or the Communists, although the last are popularly supposed to stand at the opposite end of the political scale from the other three. There is a seeming difference in the constitution of the "National Assembly" or Chamber of Deputies, in each; but to the ordinary citizen of the country it is of no practical importance. In Italy the former Chamber of Deputies became the "National Assembly of Corporations," a body composed of industrialists and trade unionists chosen by the Fascist Grand Council, and submitted to the Italian people for election or rejection as a whole—an impossible proposition. The Cortes of Spain is composed of men chosen by the Falangist Grand Council on a like arbitrary basis; some 13 Ministers, about 100 Counsellors of the Falange, about the same number of presidents of the State Council, the Civil and Military Courts, and representatives of the national syndicates, and a hundred provincial mayors, and so on. It is interesting to notice the inclusion of the judiciary. Charles, Baron de Montesquieu, in his *Esprit des Lois*, published in 1748, declared that the legislative, executive and judicial functions must be kept separate and be exercised by different authorities as a necessary safeguard of political and civil liberty. The truth of this is well established in the light of recent history.

Russia, since the revolution of 1917, has been governed nominally by the Central Executive Committee and the Council of Peoples' Commissars. Although the supreme authority is supposed to reside in the Central Executive Committee ("*Tsik*") it only meets three times in a year. For the rest of the time supreme authority is exercised by the "*Presidium*" —a cabinet of about twenty-one party members. The Constitution of 1936 theoretically provides for universal adult secret suffrage. It is significant that no other political party has yet put itself forward for election; and the state political police still exist, but under the Commissariat of the Interior, instead of as the notorious O.G.P.U. attached to the Council of People's Commissars. Italy, too, had her political police, the O.V.R.A., as did Germany under the Nazi regime, in the *Gestapo*. Not one of these governments contains, or contained, one representative of the individual citizen as such. All are nominees of the political party backed by armed force.

That explains why a people which values its liberties and free political institutions always regards large standing armed forces with great disfavour, and a large government revenue with high suspicion; for the policy of potential despots has always been first secure the financial backing, then assemble the men and finally work your will. This country acquired particular experience of that during the eleven years despotic rule of Protector Cromwell; so on to the restoration of Charles II, to quote Hallam, "the Commons tacitly gave it to be understood that a regular military force was not among the necessities for which they meant to provide. They looked upon the army, notwithstanding its recent services, with that apprehension and jealousy which becomes an English House of Commons." Indeed, "it is of no little consequence, O citizens, by what principles you are governed. . ."

(ii) Politics and Political Parties

All our everyday problems of living together have their pros and cons. Most of them admit of many shades of opinion between the definitive Yea and Nay. It is but natural that men should tend to group themselves together according

to the opinions they hold; but opinion is not the only bond between men. They are influenced by their family associations and traditions, by their rank in society and their wealth, as well as by self-interest and ambition, and even by jealousy. So in dealing with the affairs of the body politic like-minded men and men of like social position and interests make common cause and arrange themselves in factions and parties. These groupings are transient and changing according to moods, whims, passions, intrigues, ambitions, and the light of reason; but of one thing we are certain, parties and factions of some kind and every kind have ever existed. And this is true in the history of the English Parliament.

Whigs and Tories

But when Parliament had really firmly established itself as the source of final authority after the restoration of Charles II it was especially noticeable that its members tended to gravitate into one or other of two main groups, the Whigs and Tories. These names were applied to the English factions in 1679, and they may even extend back to the long Parliament. Henry Hallam well describes them as "senseless as any cant terms that could be devised." Their origin is uncertain, and the derivations usually suggested are nonsensical. At the time they were introduced they no doubt had some pointed and intelligible significance now lost to us. For us the important thing to keep in mind is that sometimes the name Whig or Tory is applied to the faction and sometimes to the principles the party professes; so that the words Whig and Tory do not at all times mean the same thing.

At the Restoration the Whigs represented those in favour of subordinating the power of the throne to that of Parliament, and in particular they were the faction supporting the Exclusion Bill of 1679, by which they meant to keep a Catholic successor from the throne. That of course was directed against James, Duke of York. On the other hand the Tories were opposed to the exclusion of the Duke of York, and they inclined to a continuance of the Stuart line after the revolution of 1688. So, since there was great deter-

mination in the country that neither the Stuart line should be restored nor the Catholic religion be revived, the only government possible after the Revolution was that of the great Whig houses; for the Whigs were strongly represented in the aristocracy.

As the party representing the principles of the Revolution of 1688 the Whigs came to be recognised as those who "deemed all forms of government subordinate to the public good, and therefore liable to change when they should cease to promote that object"; while on the contrary "to a Tory the constitution, inasmuch as it was the constitution, was an ultimate point beyond which he never looked; and from which he thought it altogether impossible to swerve." The legislative record of the two parties does much to confirm these definitions of Hallam. For example, it was the Whigs who were chiefly instrumental in bringing William III to the throne in place of James II, and in amending the constitution; it was they who passed the Triennial Act, 1694, limiting the life of Parliament to three years, and it was they who refused to renew the Bill for the censorship of the Press. The Press sprang to life and acquired such influence over the public mind that the Tory ministers in the reign of Queen Anne contemplated renewing the licensing act, and even went as far as introducing a Bill in 1712 to compel authors to acknowledge their names. A reference to the licentiousness of the Press was included in the Queen's speech at the opening of Parliament in April, 1713. But nothing materialised.

To William Pitt, as the leader of the Tories, and Charles James Fox as the Whig leader, in the closing years of the 18th century, both parties owe much for their reshaping, so that the whiggism and the toryism of the 18th century led to the liberalism and conservatism of the nineteenth. Names may change: Whigs and Tories, Liberals and Conservatives, Radicals and Constitutionalists—but the changing of the labels does not alter the fruit of the trees: the same essential characteristics remain. Sir Samuel Romilly (1757-1818) a Whig, took an active part in the amendment of the criminal law, in opposition to slavery and the spy system; and he was

opposed, too, to the suspension of the Habeas Corpus Act. Baron Brougham and Vaux, who first entered Parliament in the Whig interest in 1816, was also a great advocate of reform —social and educational. He too denounced slavery. It was the Radicals in 1824 who repealed the combination laws which heavily penalised workmen for combining to improve their working conditions; and the Radicals under Earl Grey again who passed the great Parliamentary Reform Bill of 1832: though it must be acknowledged that Pitt had, himself, brought in several Reform Bills, notably in 1785. There can be no denying, however, that the Whig ministry under Earl Grey and Lord Melbourne, in the ten years 1831-41, probably wrought greater and more beneficial changes than any other single Administration, ranging from the abolition of the system of slavery in our Colonies to the establishing of the foundations of a system of national education at home.

Liberals and Conservatives

But every party has its more extreme elements: those towards the centre may, under stress of circumstances, tend to coalesce, producing coalition governments; while those on the outer flanks tend to break off to form more extreme parties. The period following the Reform Bill, 1832, was one of disorganisation and loosening of party ties. The Radical wing of the Whig party had already formed; and the disintegration of the older parties is marked by the gradual disuse of the names Whig and Tory and the use of "liberal" and "conservative" in their place. This led in the ten years 1850-60, to the formation of a series of coalition governments. About 1859 "the Peelites" who included W. E. Gladstone definitely identified themselves with the liberal party. The second Parliamentary Reform Bill, 1867, led incidentally to the formation of a closer organisation of the party. Inspired by Joseph Chamberlain, in Birmingham, a local "liberal association" was set up; other local associations were formed on the same model, with a "national federation of liberal associations" which provided a centralised party control and supervision of the selection of candidates. There began the

development of the political caucus system.

The Conservative party, which for the most part consisted of landowners, commercial magnates and Churchmen, and included all shades of opinion from High Toryism and unbending Protection to the open mind of such men as Sir Robert Peel had been, quickly adopted the liberal model of organisation.

The Conservative party is the lineal descendant of the old Tories. They accepted the patriarchal view of the State as represented by Sir Robert Filmer (d. 1653) in his *Patriarcha*, a defence of Divine Right. He regarded the country as the king's family, and the patriarchal family as the model of political rule. The party owes much for its reconstruction to Pitt, who championed legitimate authority. The use of the name "Conservative" in place of "Tory" indeed marks the substitution of loyalty to established institutions for the older Tory attachment to the king's person. Viewing the State as an organism, and a moral being, and professing the principle that such a society has a collective will and being, the Conservatives assert it is the proper subject of rights and duties —a view somewhat analogous to that taken by the law with regard to ordinary trading and industrial companies. This fiction is of course a most convenient device for claiming that responsibility for war, and other acts against human happiness and interests, are the collective responsibility of the people, so shifting the responsibility from the true authors of the mischief, the political leaders of the people. By holding to the authority of tradition, and asserting the natural inequality of men the party lays claim to unlimited political obedience. It is interesting to recall, incidentally, that for preaching this doctrine Dr. Sacheverall was brought to trial in 1710 by the Whigs. As to the "natural inequality of men," no one, of course, would deny that there is inequality of mental and physical *capacity*; but that is a very different thing from asserting the inequality of men as political *beings*. Moreover, the Conservatives deny the idea of a mandate from the electorate, for they contend government is a divinely bestowed trust for the promotion of virtue in that

organism which is the national group. This party emphasises the importance of the group, whereas the Liberals assert the importance of the individual, and regard the State as a system of organisation for the protection of its individual members and for the promotion of their happiness.

So far only two main parties existed: the one desiring to preserve the settled order of things, and averse from any great change and innovation; the other willing and ready to make such changes as appeared to be in the public interest and for the public good. But both had this in common—they did not question the right of men privately to own property, moveable and immovable (the personal and real of the law), productive and non-productive. They recognised particularly the proprietary right of men in property of their own creation. Both parties recognised, too, though in different degree, the rights and dignity of the individual. It is perfectly true that many in both parties firmly believed that every one should keep "in that station to which it had pleased God to call him"—especially when it was sufficiently lowly!

Political Philosophers

During the eighteenth century a line of political philosophers was born which included Jean Jacques Rousseau (1712-78) in Geneva; Immanuel Kant (1724-1804) in Germany; Jeremy Bentham (1748-1832) in England; Georg Hegel (1770-1831), another German; and Robert Owen (1771-1858), a Welshman. The line was continued into the next century by such as Karl Marx (1818-83) and his collaborator Friedrich Engels, both Germans; and by Georges Sorel (1847-1922), a Frenchman. The doctrine of Rousseau, as stated in his *Social Contract*, influenced the American Colonists when they seceded from the English Crown and the course of the French Revolution (1789-99). Kant and Hegel starting from the democratic doctrine of Rousseau arrived at very different conclusions. The Hegelian theory glorified the power and authority of the State, and subordinated the rights of the individual to it; apparently accepting

"the State" as the highest form of human achievement. On the other hand Bentham refused to consider the State as anything more than a collection of individuals, every one of them counting as a person. Moreover, in his view, the one purpose of government was to promote the greatest happiness of the greatest number. (About some things, however, he had the most extraordinary notions.) Out of the teaching of Bentham, John Stuart Mill, his friend, elaborated the doctrine of Utilitarianism which was the basis of the political thought and action of the Philosophical Radicals. They were essentially individualists; and, although it is now fashionable to be scornful of their *laissez-faire* policy in industry and commerce, it was that policy that led to British industrial and commercial supremacy; and they were the pioneers of social reform to improve the standards of health and sanitation and of education. Robert Owen, who is said to have first applied the name "Socialism," in 1812 published his *New View of Society* and *Book of the New Moral World*. He travelled Great Britain and America lecturing; and his theories were given a partial trial in England, Scotland and America. He introduced the idea of using labour notes as the medium of exchange (see p. 175); but the communities he set up failed, partly because his own religious views alienated sympathy.

1848, The Year of Revolution

The last half of the 18th century had seen the beginnings of the Industrial Revolution, leading to the assembling of large numbers of people in close concentrations, working and living for the most part under the most degrading and unhealthy conditions. In fact positive cruelty was often practised towards the young children and apprentices. The rapid growth of the Industrial system, and the attitude of authority towards the legitimate trade union movement provoking the working people, combined with this welter of political and economic thought and theory paved the way to the Year of Revolution, 1848. Politico-economic rebellions broke out in France, Germany, Austria and Italy at the same time that

Marx and Engels issued their *Communist Manifesto*, a declaration of the principles of International Socialism. (Notice that the first volume of *Das Kapital* was not published till 1867; and the other two volumes after the death of Marx). For a few months in France there was a definite attempt to carry out a socialist programme. Here in Britain the Whig or Liberal party, which held office continuously—either with an absolute majority, or in coalition—from 1830 to 1874, except for a five year break, 1841-6, pushed on with measures of reform legally regulating hours and conditions of work, and the municipal acquisition and administration of property and industries. The Poor Law and the Education Acts are notable anticipations of Socialist demands which did much to improve the lot of, and appease, the working population. But that did not prevent men assembling on the Left flank of the Whig party to form new parties as the followers of Owen and Marx. It was but the rebirth, if ever they had died, of the ideas underlying the mediaeval revolutionary movement of the peasants of England and Germany. Even the Communism of Marx was not new.

The Fabian Society

The first step towards the foundation of a third party, *as such*, may be found in the formation of the Fabian Society in 1883. It was a small coterie of earnest people seeking by infiltration, lectures, and publications, such as the *Fabian Essays* and *Fabian Tracts*, to spread ideas tending to the abolition of private property in land, and of capital in hands other than those of the community. They believed the "socialisation of industry" could be brought about by convincing people of the need for change: they did not propose a resort to violence. But influential though the Fabians were, their society was a group of intellectuals with little direct appeal to the masses. James Keir Hardie (1856-1915), with the financial backing of the Ayrshire miners, was elected as the first independent Labour member of Parliament in 1892; and it was he who really attracted the masses by founding the Independent Labour Party (the I.L.P.) in 1893. Believ-

ing in Socialism, almost as a creed, Hardie conceived it to be a way to win a life of freedom, self-respect and security for the worker; he repudiated the idea of fostering class-hatred, holding that the purpose of Socialism must be to blend the classes into one human society. In 1900 with the help of the Fabian Society, the Socialist Representation Committee was formed; and, with the support of the trades unions, the Labour Party was finally founded and represented in the House of Commons for the first time by about forty members after the General Election of 1906. The German socialist movement had been represented in Parliament by about 36 members since 1894. It was almost inevitable that the socialists, by reason of their doctrine, should be linked with the trade union movement, and as a socialist-labour group come to represent especially a particular section of the nation.

The Socialists

The socialists of the 18th and 19th centuries were doubtless inspired by a spirit of revolt against the industrial conditions to which the majority of the peoples of Western Europe, Germany, France and Britain especially, were being subjected. They objected that the factory system employing gangs of men to operate expensive machinery in place of the inexpensive tools of the craftsman reduced the workmen to a position of dependence on the proprietors of the capital. They objected that the private ownership of land conferred on the private landowners some power to dictate to the cultivators of the soil the terms on which they should earn their living. They objected to what they regarded as the "unearned profit" on the capital of the industrial and landed proprietor. Therefore, the socialist argument ran, we must dispossess the proprietors—"The Capitalists"—of their undertakings and their land. The early socialists, it is true, wanted to place the ownership and control of capital, and the organisation and direction of industry, in the hands of the workers concerned; this was the direction taken by the Co-operative movement in England inspired by the socialism of Robert

Owen, and it may well be that this was the original intention of Karl Marx. But since the last decade of the 19th century the socialists have shifted their ground. Everywhere now they aim at effecting the transfer of ownership and control of industry and the land, not to the workmen engaged in each enterprise, but to the "nation" or the local government body. What the socialist theorist suppresses—one cannot suppose that he does not know—is the fact that production, either on the land or in the factory, cannot be carried on without capital. Capital must be provided, and the "State"—the Central Controlling Authority, for that is what the "State" means in this context—possesses none of its own; hence it resorts to borrowing money in exactly the same way as the former industrialists and agriculturalists. So the "Capitalists" are still needed and they still exist in the socialist State. As to control it passes to a Bureaucracy (quite literally) responsible solely to the political caucus in power; and from which the "profit-motive" is entirely absent because the losses will be borne by the taxpayer. As to the working citizen he has no more voice in the control and management of his industry than he had under his "Capitalist" employers, often less. His security of employment is no higher, though he may indeed be arbitrarily "directed" at the will of the State Monopoly Bureau where and how it pleases. Socialism, as it is practised, then, has simply resulted in the exchange of one master for another; and it may be for an even harder task-master, more remote and not so human. Perhaps it would have been wiser, and possibly simpler, if the early socialists had given more thought to, and concentrated their efforts on "educating their masters" in their obligations and moral responsibilities towards those they employed: for the failings of the "Capitalist system" as it developed out of the Industrial Revolution were moral failings rather than economic failings. So far from there being a real clash of interests between the brain-power and managerial and directive capacity of the one part and the brawn and manual dexterity of the other part, they are complementary; together they complete and perfect the working team.

The Folly of Faction

But as political parties extend to the Left or to the Right from the centre they tend more and more to emphasise the apparent division within a community, and less and less the unity of purpose fundamentally the justification for the existence of a community. Politically the followers of Karl Marx divide all communities into two sections—the one they call the "bourgeoisie" and the other the "proletarian"—and they appear to assume that there is a conflict of interests, and that there are irreconcilable differences between them; that strife between them is inevitable until the one part has subdued and superseded the other. The so-called Fascists hold very similar opinions, but they seek to subdue the working population. It were better when men find their opinions so estranged that they can no longer mutually promote their well-being and happiness, severally as individuals, and collectively as a community, that the community should dissolve than that it should resolve itself into hostile groups. For factions seeking to secure for themselves political power through exacerbating the differing interests of sections of a community, and encouraging and fostering internal strife, there can be no justification. The purpose of government is not to render evil for evil. Men set up governments to bring good out of evil; to reconcile the differing interests of the various sections of the governed. So then instead of emphasising their differences the true aim of all political parties as they hope to constitute a government ought to be to compose them. Indeed in those times when there were only two main parties that does seem to have been their aim, even if only because of its expediency, as Lord Courtney suggests in his *Working Constitution of the United Kingdom*: "Every party in power leans in the direction of the policy of its opponents. It is a common experience for each in turn to be condemned by its extreme followers for adopting the policy of its adversaries. The complaint is well founded, and it shows that both Liberal and Conservative are conscious that the true line of national movement follows a course between the exclusive fields of policy. If it were possible to organise

the representation of national life so that it should be habitually embodied in something reproducing this central line of movement, we should be spared the falsity and the waste resulting from an organisation always producing more or less serious misrepresentations." And in support of our contention that it is the purpose of the government to reconcile and unite all interests and people within the community we quote Walter Bagehot's *English Constitution*: "If we could obtain a House of Commons that should be well elected, that should contain true and adequate exponents of all class interests, that should coincide in opinion with the fair intelligence of the country, we should have all which we ought to desire."

. . . . .

We end as we began by saying, "All men desire to lead in this world a happy life. That life is led most happily wherein all virtue is exercised without impediment or let." If the purpose of all government is not to secure that, what is it? . . . .

March, 1948.

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